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Executive Orders

EXECUTIVE ORDER MJF 01-28

Louisiana NFL Stadium Advisory Commission

WHEREAS, the state of Louisiana requires additional information before it can properly assess whether the best interests of the citizens of this state will be served by developing a new National Football League stadium, or by reengineering or renovating the Louisiana Superdome, for a competitive home stadium environment for the New Orleans Saints, (collectively hereafter "stadium options"); and

WHEREAS, the state of Louisiana would, therefore, benefit from the services of an advisory commission composed primarily of business, civic, and governmental leaders, predominately selected from the greater New Orleans area, charged with the duties of compiling and evaluating factual data on the stadium options, identifying funding sources to cover the cost of each of the stadium options, identifying the terms, conditions, and funding sources of short and long-term inducement packages to accompany the stadium options, and submitting a report and recommendation to the governor and the Louisiana Legislature on the stadium options no later than January 15, 2003;

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

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

SECTION 2:

A. The Commission shall compile, and thoroughly and objectively evaluate information and data on the feasibility, desirability, and costs of three (3) options for providing a competitive home stadium environment for the New Orleans Saints:

- 1) developing a new National Football League stadium;
- 2) comprehensively reengineering the Louisiana Superdome; and
- 3) renovating the Louisiana Superdome, particularly in suite and club seating areas, (collectively hereafter "stadium options").

B. The Commission shall also:

- 1) identify and assess funding sources and/or mechanisms to cover the costs of each stadium option;
- 2) describe in detail any legislation that may be needed for each of the stadium options; and
- 3) identify and assess the terms, conditions, and funding sources of the short and long-term inducement packages for the New Orleans Saints that accompany each stadium option.

C. The Commission shall select the stadium option that it finds to be in the best interest of the citizens of the

state of Louisiana and recommend it to the governor and the Louisiana Legislature. The recommendation shall include a proposed time-table for the planning, construction, and completion of the recommended stadium option. The recommendation shall also include a complete proposal for funding sources, necessary legislation, and short and long-term financial inducements for the New Orleans Saints that accompany the recommended stadium option.

D. Upon the request of the governor, the Commission shall also recommend funding sources for short-term inducements recommended by the governor for the New Orleans Saints for the period pending and/or until executive and/or legislative action is taken on the Commission's final report and recommendation.

E. On or before January 15, 2003, the Commission shall submit a final report and recommendation to the governor and the Louisiana Legislature on the stadium options and inducement packages. At its discretion, the Commission may submit interim reports.

SECTION 3: The Commission shall be composed of fifty-two (52) members appointed by and serving at the pleasure of the governor, selected as follows:

- A. Ten (10) members of the Louisiana Legislature, selected from the greater New Orleans area;
- B. Three (3) members of the Louisiana Legislature, selected from the state of Louisiana at large;
- C. The mayor of the city of New Orleans, or the mayor's designee;
- D. The president of the parish of Jefferson, or the president's designee;
- E. Two (2) members of the New Orleans City Council; and
- F. Thirty-five (35) notable citizens of the state of Louisiana, predominately selected from the greater New Orleans area, who have significant academic and/or professional expertise in one (1) or more of the following areas:

1. business or industry;
2. government,
3. public administration;
4. law; and/or
5. economics.

SECTION 4:

A. The governor shall appoint the chair of the Commission from its membership. All other officers, if any, shall be elected by the members of the Commission from its membership.

B. The governor shall also appoint a non-voting executive assistant to the Commission. The executive assistant shall not be a member of the Commission.

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

SECTION 6: Support staff, facilities, and resources for the meetings of the Commission and the performance of its duties shall be provided by the Louisiana Stadium and Exposition District and/or the Office of the Governor.

SECTION 7:

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

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

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

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

SECTION 9: 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 July, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0107#001

EXECUTIVE ORDER MJF 01-29

Bond Allocation Louisiana Local
Government Environmental Facilities and
Community Development Authority

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2001 (hereafter the 2001 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

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

WHEREAS, the Louisiana Local Government

Environmental Facilities and Community Development Authority has requested an allocation from the 2001 Ceiling to be used to finance extending, rehabilitating, repairing, and renewing the infrastructure of an existing crude oil manufacturing facility located at 101 Ferry Road, Egan, parish of Acadia, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2001 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$10,000,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Quantum Fuel and Refining, Inc.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "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 2001, provided that such bonds are delivered to the initial purchasers thereof on or before October 29, 2001.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 31st day of July, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0107#002

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences

ULV Malathion Aerial Application
(LAC 7:XXIII.145)

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

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

These emergency rules become effective upon the signature of the Commissioner and shall remain in effect for 30 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

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

A.5.b.xxxvi. ...

c. malathion insecticide applied with the following conditions to control plant bugs in cotton;

i. The Commissioner hereby declares that prior to making any aerial application of ULV malathion 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 5 feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the 5 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 percent and 75 percent 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 is required.

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

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

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

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

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

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

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

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

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Fixed towers, portable stations, satellite, Coast Guard, or other

acceptable methods may provide differential correction. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 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 sunrise on July 31, 2001 and shall not be made after sunset on August 30, 2001.

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 26:1964 (September 2000), LR 27:

Bob Odom
Commissioner

0108#008

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Contracts for Termite Control Work (LAC 7:XXV.119)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations to include both native subterranean (reticulitermes) and Formosan (coptotermes) termites under the protection of termite contracts issued by pest control operators.

Formosan termites cross all racial, ethnic, financial, and cultural barriers and have caused millions of dollars of damage to historic as well as business and residential areas. Formosan termites are known to infest 32 parishes in Louisiana. The number of parishes with infestations continues to increase with outbreaks in northeastern and western parishes this year. The Formosan termite continues to spread into areas that have not been considered to be Formosan areas. The destructive power of the Formosan termite and the swiftness of that destruction have been clearly documented. While all citizens are affected, the poor and the elderly face a higher risk of harm, including personal injury. The poor and elderly, in many cases, do not have the financial resources to repair the damage caused by Formosan termites or to stop their destructive activities. As a result the homes of the poor and elderly are subject to collapse or to such latent defects, such as weakened floors to cause the homes to be an imminent threat to the physical health and safety of such citizens.

The current state standard termite contracts for post-construction (liquid ground and bait treatments) covers only the native subterranean termite. However, the termiticides and the specifications for their applications are the same for both native subterranean and Formosan termites. Allowing pest control operators to continue to exclude Formosan termites from contracts for termite control work will provide neither the pest control operator nor the customers with any

significant economic benefit. With the continued spread of Formosan termites the likelihood of contentious litigations will dramatically increase as pest control operators and their customers battle over whether a termite infestation is or is not covered under the termite contract. The cost of this litigation to both the pest control operator and the customer, as well as the deterioration of the public's trust in the pest control industry creates an imminent threat to the public welfare of the citizens of this state. Because the destruction or potential destruction of Louisiana homes and businesses by the Formosan termite will cause irreparable harm to the economy of Louisiana and to the real estate values of those structures; subject the poor and elderly to physical harm and injury; and spawn time consuming and costly litigation thereby creating an imminent peril to the health, safety and welfare of Louisiana citizens the Structural Pest Control Commission hereby issues these emergency rules.

These emergency rules become effective on September 1, 2001 and shall remain in effect for 120 days or until these rules are adopted through the normal promulgation process.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§119. Contracts for Termite Control Work

A. The licensee must enter into a written agreement for termite work with the property owner employing him, which agreement must:

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than one year after the treatment is made;
3. guarantee treatment of the property in accordance with minimum specifications for termite control work set forth in §141 hereof; and
4. provide for at least one inspection of the property prior to expiration of the agreement;
5. each contract must include an inspection diagram.
6. Contracts shall provide for the treatment of all subterranean termites.

B. Each contract for termite control work shall cover only one unit or one individual property, provided that the contract may include a garage appurtenant to the unit or individual property.

C. Contracts for spot termite treatments must guarantee the area treated for a period of one year.

D. The licensee must report to the commission, no later than the tenth day of each month, each contract for termite work that he has entered into and performed during the previous month. If no contracts were entered into or performed during the previous month, the licensee must report this fact to the commission no later than the tenth of each month.

E. The licensee shall pay a \$5 fee for each standard contract reported under §119.D above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 27:

Bob Odom
Commissioner

0108#074

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs

(LAC 28:IV.101-111, 301, 501-509, 701-705, 801, 805, 901-911, 1101-1111, 1301-1305, 1501, 1503, 1701-1705, 1901, 1903, 2101-2109, 2113, 2115, 2301-2313)

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

The emergency rules are necessary to implement statutory changes enacted during the 2001 Regular Session of the Legislature. 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 August 2, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 1. Scope

§101. Introduction

A. Statutory Authority. The Louisiana Student Financial Assistance Commission (LASFAC) was created by Chapter 20, Higher Education Assistance, Louisiana Revised Statutes of 1950, comprised of R.S. 17:3021-3036, for the purpose of supervising, controlling, directing and administering state and federal programs to provide loans to assist persons in meeting the expenses of higher education, and state and federal scholarship and grant programs for higher education. The Louisiana Office of Student Financial Assistance (LOSFA), under authority of the commission, administers state and federal postsecondary student scholarship, grant and loan programs.

B. Agency's Mission Statement. The mission of LOSFA is to provide resources to Louisiana residents for the pursuit of postsecondary education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), repromulgated 27:

§103. Purpose

A. LAC 28:IV provides the rules and regulations governing participation in the scholarship and grant programs administered by LASFAC including, but not limited to:

1. applicants and recipients;
2. high school counselors;
3. principals and headmasters;
4. superintendents;
5. college and university financial aid directors and staff; and
6. federal and state authorities.

B. LAC 28:IV was developed to meet the following objectives:

1. establish scholarship and grant policies and procedures that implement and explain or interpret statutes;
2. define the program responsibilities of participants (applicants, recipients, and high school, school board and postsecondary institution officials);
3. ensure that scholarships and grants are awarded in accordance with statute and legislative intent;
4. establish procedures to monitor the performance of scholarship and grant recipients;
5. ensure compliance with statutory and regulatory provisions governing the administered programs.

C. Since these rules and regulations can neither anticipate nor address every situation that might be encountered in the administration of the scholarship and grant programs included herein, participants in doubt about the applicability or interpretation of a rule or regulation in LAC 28:IV are advised to contact LOSFA for guidance.

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM), or Tuition Opportunity Program for Students (TOPS) Bulletins. These Memoranda and bulletins will cover additions, deletions, revisions and clarifications to the rules and regulations. In compliance with Act 1302 of the 1999 Regular Session of the Legislature, information shall be mailed to the President and Superintendent of each City and Parish School Board in the State, the principal and counselors of each high school in the state, the Chancellor, Director of Financial Aid, Business Office, Auditor and Registrar of each public postsecondary school in the state and each regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), LR 26:65 (January 2000), LR 27:

§105. Effective Date

A. These rules and regulations are effective for awards beginning with the 1998-99 academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), repromulgated LR 27:

§107. Authority to Audit

A. By participating in the scholarship and grant programs administered by LASFAC and described in LAC 28:IV, all participants, including high schools and

postsecondary institutions, grant LASFAC and the Louisiana legislative auditor the right to inspect records and perform on-site audits of each institution's administration of the programs for the purpose of determining the institution's compliance with state law and LASFAC's rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR:24:1898 (October 1998), repromulgated LR 27:

§109. Discrimination Prohibition

A. The exclusion of a person from equal opportunity for a Louisiana scholarship and/or grant program administered by LASFAC because of race, religion, sex, handicap, national origin or ancestry is prohibited. No policy or procedure of this agency shall be interpreted as superseding or contradicting this prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), repromulgated LR 27:

§111. Criminal Penalties

A. All certifications of student performance which are submitted to LASFAC for the purpose of determining a student's eligibility for an award under a student aid program administered by LASFAC shall be by sworn affidavit of the certifying official and such official shall be subject to criminal law applicable to false swearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

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), repromulgated LR 27:

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 (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.

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.

ACT Score the highest composite score achieved by the student on the official ACT 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.

Average Award Amount for those students with a TOPS Opportunity, Performance, or Honors Award 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.

Average Award Amount (TOPS-Tech) for those students with the TOPS-Tech Award attending an eligible college or university that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the total dollar value of awards made under TOPS-Tech in the prior academic year to students attending public colleges and universities that do not offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards.

Award Amount can amount equal to Tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "Cost of Attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows.

a. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in an academic degree program, the amount shall equal the actual cost of tuition.

b. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in an academic degree program, the amount shall equal the Weighted Average Award Amount.

c. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

d. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that 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 amount shall equal the Average Award Amount.

e. For students with the TOPS-Tech Award attending an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

f. For students with a TOPS-Tech Award attending an Eligible College or University that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the Average Award Amount (TOPS-Tech).

g. For students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school or the Weighted Average Award Amount, depending upon whether the Louisiana professional school is a public or private school.

BESECBoard of Elementary and Secondary Education, elected and appointed body with statutory oversight of Louisiana special, elementary and secondary schools.

Cost of Attendance the total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

Cumulative College/University Grade Point Average the calculation of grade point average by a Reporting Institution for all courses taken at postsecondary institutions to determine whether a student has maintained Steady Academic Progress and whether a student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Award. The cumulative grade point average must be calculated on a 4.00 scale and must include all courses from all postsecondary institutions attended for which a student has been awarded a grade. Courses taken at a college or university other than the Reporting Institution while the student was still in high school and at postsecondary institutions other than the Reporting Institution must be included in the calculation, even if the Reporting Institution does not recognize the course(s) for graduation purposes. Courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

Cumulative High School Grade Point Average the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted, including each course that is repeated. Effective for high school graduates beginning with the Academic Year (High School) 2002-2003, the Cumulative High School Grade Point Average shall be calculated by using only the course grades achieved for those courses included in the core curriculum. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade.

For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade. In the event a student takes the same core course more than one time, the Cumulative High School Grade Point Average shall be calculated using the average of the grades earned in each repeated course. For example, a student who earns an "F" in Algebra I and who earns a "B" by repeating the course would add "0" for the "F" to "3" for the "B" and divide by two, resulting in a "1.5" grade for calculating the Cumulative Grade Point Average.

a. For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

b. For schools awarding a maximum of 5 points for honors courses, the formula would be used to convert the honors course grade of "C" as shown in the following example.

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

Dependent Student a student who is dependent on his or her parents or legal guardian for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Disabled Student a student who has one or more learning, visual, hearing, or physical disabilities diagnosed by a person licensed or certified to diagnose such disability, when the diagnosis states the need for the student to be provided special accommodations relative to the curriculum requirement.

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.

Eligible Noncitizen an individual who can provide documentation from the Immigration and Naturalization Service (INS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the U.S. must provide documentation from the INS to verify permanent residency. For 1997, 1998, and 1999 high school

graduates, an Eligible Noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

Eligible Non-Louisiana High School and Eligible Out of State High School and Eligible Out of Country High School Csee §1701.A.3., 1701.A.4., and 1701.A.5., respectively.

Exceptional Child Ca student defined as an exceptional child in accordance with R.S.17:1943(2), excluding gifted and talented.

Expected Family Contribution (EFC) Can amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

Fee Schedule Ca listing of the actual tuition and mandatory fees for attendance at a postsecondary school as defined by the institution.

First-Time Freshman Ca student who is awarded TOPS Opportunity, Performance, or Honors and enrolls for the first-time as a full-time freshman in an academic program in a postsecondary school subsequent to high school graduation, and continues to be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in an academic program in a postsecondary college or university in a summer session will be considered a First-Time Freshman for the immediately succeeding fall term. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in a non-academic program in a postsecondary school in a summer term will be considered a First-Time Freshman at the time of such enrollment. 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.

First-Time Student Ca student who is awarded TOPS-TECH and enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and continues to be enrolled full-time. The fact that a student who is awarded TOPS-TECH enrolls in an academic program at a postsecondary school prior or subsequent to graduation from high school, but prior to the required date for full time enrollment in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree, shall not preclude the student from being a First-Time Student.

Full-Time Student C

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student must be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech or Louisiana Technical College);

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining 8 quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends. (see 705.A.7., 705.D., 805.A.7., and 907.A.2. for more expanded TOPS requirements);

d. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

e. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college;

f. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree.

High School Graduate Cfor 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 a BESE-approved home study program in accordance with the requirements of this Chapter 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 purpose of applying deadlines. For the purpose of determining when a student must begin postsecondary enrollment, all students that report completion of an approved home study program to BESE during an Academic year (High School) are deemed to have graduated on May 31st of that year.

Independent Student Ca student who meets at least one of the criteria listed in Subparagraphs a. - f. or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

- a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;
- b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;
- c. is an orphan or a ward of the court or was a ward of the court until age 18;
- d. has legal dependents other than a spouse;
- e. is a graduate or professional student;
- f. is married.

Legal Guardian Can adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor. Also referred to as a *court ordered custodian*.

Louisiana Resident

a. any independent student or any dependent student with at least one parent or court ordered custodian who has resided in the state for a minimum of 24 consecutive months immediately preceding the month of high school graduation or the month of May in the Academic Year (High School) that a student completes a home study program or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or legal guardian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voters registration card; and
- ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- iv. if earning a reportable income, a Louisiana tax return.

b. any member of the Armed Forces on active duty who is a resident of Louisiana as demonstrated by the member's DD Form 2058 validated by the member's military personnel officer, whose official military personnel or pay records show that the member claims Louisiana as his home of record, and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv, above.

c. any member of the Armed Forces who is stationed in Louisiana under permanent change of station orders and who, not later than sixty days after reporting to such station, changes his military DD Form 2058 to reflect Louisiana as his state of legal residence, and complies with all Louisiana income tax laws and regulations while stationed in Louisiana. A copy of a completed residency affidavit, a copy

of the Permanent Change of Station (PCS) Orders, and a DD Form 2058 validated by the member's military personnel officer and showing Louisiana as the member's state of legal residence, must be submitted to the Louisiana Office of Student Financial Assistance (LOSFA) at the time the service member's dependent applies for TOPS. The DD Form 2058 must reflect that it was filed within sixty days after the member reported to duty at a duty station in Louisiana.

d. a parent or court-ordered custodian who is living outside the United States and its territories, is actively engaged in work or another activity on behalf of a Louisiana employer or sponsor, and is not on active duty with the United States armed forces, may meet the residency requirement for dependent students by providing a sworn affidavit with supporting evidence that the parent or court-ordered custodian complies with all of the following:

- i. was a resident of Louisiana who actually lived in Louisiana for at least the twenty-four months preceding the date he started the work or activity outside the United States and its territories.
- ii. was assigned duties outside the United States and its territories by a Louisiana employer or sponsor and continues to be employed by the employer or perform duties for the sponsor through the date of the student's graduation from high school or completion of a home study program approved by BESE.

iii. has remained a resident of Louisiana through the date of the student's graduation from high school or completion of a home study program approved by the State Board of Elementary and Secondary Education. Evidence may include a Louisiana voters registration card, a Louisiana driver's license, a Louisiana registration for an owned vehicle, a Louisiana tax return, notarized affidavits, copies of correspondence from the employer or sponsor providing the reason for living outside the United States and its territories and the time period of the work or activity, copies of visas, copies of foreign housing documentation, and copies of other documents that demonstrate a presence in Louisiana or a foreign country during the required period of time.

Merit Ranking Formula Ca mathematical equation incorporating selected merit factors which is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) + \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula II applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the

TOPS Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \times 90 \right) + \left(\left(\frac{\text{College Level}}{4} \right) \times 10 \right)$$

c. **Formula III** Applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

d. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

Monetary Repayment For purposes of the Rockefeller State Wildlife Scholarship and TOPS Teacher Award Programs, repaying the scholarship funding received, plus any interest accrued under the terms of the promissory note signed by the recipient, if the recipient fails to fulfill the terms of the program. See *Repayment*.

Orphan A person who does not live with either parent because the parent(s) is/are dead or has/have abandoned him or the parental rights of the parent(s) has/have been severed by competent authority.

Over Award For the purposes of LAC 28:IV, an over award occurs when a student received financial aid in excess of the cost of attendance as established in accordance with federal Title IV regulations or an award under state programs to which the student was not entitled.

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:

a. 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

b. the student can complete his program's graduation requirements in the summer session; or

c. 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.

Refund A refund of school charges that the school makes to a student or to a creditor on behalf of the student, usually after the student has withdrawn from school. The refund to the student is the difference between the amount the student paid toward school charges minus the amount the school keeps for the portion of the payment period that the student was enrolled.

Repayment The amount of the cash disbursement that a student must pay back to the school if the student withdraws from the program. If the cash disbursement was greater than the student's cost of attendance (student's education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount.

The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal regulations. See *Monetary Repayment*.

Reporting Institution The postsecondary institution required by Section 1903.A of these rules to report a student's College/University Cumulative Grade Point Average.

Steady Academic Progress The maintenance of a minimum cumulative grade point average of 2.00 on a 4.00 scale. Students will be required to maintain Steady Academic Progress effective for the beginning of the 1999 Fall Semester.

Substantial Financial Need For purposes of the LEAP (formerly SSIG) program only, substantial financial need is the difference between the student's cost of attendance and the sum of that student's expected family contribution (EFC), plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

Tuition The fee charged each student by a postsecondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students, except for the Technology Fee authorized by Act 1450 of the 1997 Regular Session of the Legislature, which were in effect as of January 1, 1998, and any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date.

Undergraduate Student A student who has not completed the requirements for a baccalaureate degree program.

Weighted Average Award Amount For those students with the TOPS Opportunity, Performance, and Honors Award 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 LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:

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 LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 26: (September 2000), repromulgated LR 27:

§503. Application Deadlines

A. Deadline for Priority Consideration

1. For priority consideration for the 1998-99 award year, applicants must submit the FAFSA to be received by the federal processor by June 1, 1998.

2. Priority consideration means that an applicant who submits a FAFSA by this date shall, under normal circumstances, receive notification of his eligibility for a noncompetitive award (TOPS Opportunity, Performance and Honors Awards) prior to enrolling in the fall term.

3. An applicant for a competitively awarded scholarship (TOPS Teacher Award and Rockefeller State Wildlife Scholarship) who submits a FAFSA by this date shall be considered for selection of award in the first round of applicants awarded.

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be postmarked by April 15, or to be received by the federal processor by May 1, preceding the award year.

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. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

D. Final Deadlines For Reduced Awards

1. If an application for an initial award under this Chapter is received after the deadline provided in §503.B above, but not later than sixty days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than sixty days after the deadline provided in §503.B above, but not later than one hundred twenty days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. 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 LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 25: (September 2000), repromulgated LR 27:

§505. Proof of Compliance

A. As proof of compliance with the state's final deadline for submitting the FAFSA, LASFAC will accept the documentation listed in §505.1-3. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. A certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to the state's final deadline.

2. The Institutional Student Information Report (ESAR ISIR), produced by the federal processor, shows that the original application was received by the state's final deadline.

3. The federal processor provides verbal or written verification to LASFAC that the original application was received by the state's final deadline.

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:

§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until May 1 of the spring term of that award year.

B. Students not determined eligible by May 1 of the spring term of the award year are ineligible to receive program funding that award year.

C. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be

utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 1998-99 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 1999.

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:

§509. ACT Testing Deadline

A. The student must take the official ACT Test (including National, International, Military or Special test types) on or before the official April test date in the Academic Year (High School) in which the student graduates.

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. In order to substitute a SAT score, the student must direct the College Board to send the score to LOSFA so that the score is electronically reported to LOSFA by the College Board within 45 days of the final test date allowed by Section 509. SAT scores received in any other manner shall not be considered.

C. Final ACT Testing Deadline for Reduced Awards

1. Beginning with awards made for the 2000-2001 academic year and thereafter, if an applicant does not achieve a qualifying score on the ACT or on the Scholastic Aptitude Test for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS Award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS Award.

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 ACT 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 26:1995 (September 2000), amended LR 26:2000 (September 2000), LR 27: 36 (January 2001), LR 27:284 (March 2001), repromulgated LR 27:

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

§701. General Provisions

A. Legislative Authority. Awards under the Louisiana Tuition Opportunity Program for Students (TOPS), the Opportunity, Performance and Honors Awards, are established as set forth in R.S. 17:3048.1 et seq., as amended.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to provide an incentive for Louisiana residents to academically prepare for and pursue postsecondary education in this state, resulting in an educated work force enabling Louisiana to prosper in the global market of the future. The major components of TOPS are the Opportunity award, the Performance award and the Honors award.

C. The Opportunity, Performance and Honors awards, which will be funded for the 1998-99 academic year, combine former programs (Louisiana Tuition Assistance Plan [TAP] and the Louisiana Honors Scholarship Program) with a new component, the Honors award, to produce a comprehensive program of state scholarships.

D. The purposes of this program are to:

1. financially assist those students who are academically prepared to continue their education at a Louisiana postsecondary institution; and
2. encourage academic excellence; and
3. provide incentives for Louisiana high school graduates to pursue postsecondary education in this state.

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 LSA-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 LSA-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 LSA-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. In lieu of the amount equal to tuition as provided by §701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provide therein, plus any applicable TOPS stipend and a sum of not more than \$150 per semester or \$300 annually for the actual cost of books and other instructional materials.

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 (8) 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. Recipients of TOPS Awards who are also beneficiaries of Student Tuition Assistance and Revenue Trust (START) Saving Program accounts, may apply the START disbursements to pay tuition, and any remaining tuition due may be paid by the TOPS award. Any balance of the TOPS award which remains after payment of the institution's charges, shall be credited to the student's account and treated in accordance with institutional policies. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any

federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS Award shall be reduced by the amount of any remaining over award.

7. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship during the 1997-98 award year, who have maintained eligibility for the 1998-99 award year, shall be continued as TOPS Opportunity or Performance recipients, respectively.

8. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship program during the 1997-98 award year, who lost eligibility due to their failure to maintain the required grade point average, shall be continued as TOPS Opportunity or Performance recipients, respectively, however, their eligibility for an award shall be suspended pending their satisfaction of the continuation requirements of §705.A.8 and 9. If a student satisfies the applicable requirements of §705.A.8 and 9 no later than the end of the 2000 Spring semester, he/she shall be eligible for reinstatement of the award in accordance with §705.B, for the semester following the satisfaction of the requirements of §705.A.8 and 9.

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. Award Amounts shall be credited to a student's account with the institution and shall be used consistent with the institution's policy, and as directed by the student, to pay for those educational expenses included in the Cost of Attendance.

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 (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 two hundred dollars 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. 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 (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 four hundred dollars 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. 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 LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999) LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26: 1995, 2000 (September 2000)., Repromulgated LR 27:

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. Be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV and

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 college or university defined in §301, and:

a. if graduating from an eligible Louisiana public or BESE approved nonpublic high school or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or

b. if the student joins the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; or

c. if the student is eligible under the provisions of §703.A.5.d or f, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completes the home study program, which is deemed to be May 31st; or

d. if the student is eligible under the provisions of §703.A.5.d or f and has joined and is on active duty with the United States Armed Forces within one year of completion of the twelfth grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the completion of the approved home study program or within one year from the date of discharge, whichever is earlier; or

e. if a 1996-97 graduate who is an otherwise eligible applicant, enroll as a full-time student during fall, 1998;

f. High school graduates of 1997 and 1998 who are otherwise eligible applicants attending ineligible schools for the 1998-99 academic year, may request a waiver from LASFAC to enroll in an eligible school and accept the award no later than the 1999 Fall Semester by establishing to the satisfaction of LASFAC that his/her failure to accept the award for the 1998-99 academic year was due to circumstances which could not be changed without the student or his family experiencing a significant, negative financial impact or which establish that it was not otherwise feasible to enroll in an eligible school due to the timing of the notification to the student of his/her eligibility for a TOPS award. To apply for a waiver from LASFAC, the student must submit a written request addressed to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and submit documentation which clearly establishes the hardship which would have resulted had the student not attended the out-of-state college or university.

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:

i. and, if enrolling in an academic program, must also apply by July 1st prior to the Academic Year (College) in which the student intends to first accept the award, and by July 1st of every year of eligibility thereafter, except as provided in Section 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 1st immediately after the start of the Program Year (Non-Academic Program) in which the student intends to first accept the award, and by July 1st of every year of eligibility thereafter, except as provided in Section 501.B.

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

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language

1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Computer /Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Multimedia Productions (1 credit) Web Mastering (1/2 credit) Independent Study in Technology Applications (1 credit)
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ii. for purposes of satisfying the requirements of 703.A.5.a.i., above, or 803.A.6.a., the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
	*Applied Mathematics III was formerly referred to as Applied Geometry

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)
English IV	any two of the following 1/2 unit courses: 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 I (one unit)	Any combination of advanced math courses which equal one unit of course credit that are certified by the school to be equivalent of Algebra I
Algebra II (one unit)	Any combination of advanced math courses which equal one unit of course credit that are certified by the school to be equivalent of Algebra II MA 120 College Algebra (1 unit), or MA 121 Accelerated College Algebra (1/2 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 (? unit) and Free Enterprise (? 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 (1/2 unit) and EH 122 Modern History (1/2 unit)

or

b. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.3. and have completed the core curriculum defined in §703.A.5.a.i., unless the following exceptions apply:

i. for students in graduating classes prior to the year 2004, one or more core units are waived based upon a sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

ii. for a Disabled Student or an Exceptional Child, as defined in §301, who have met the criteria set forth in §2115, one or more core units are waived; or

c. graduate from an out-of-state public or private high school approved by the chief state and territorial school officer (or the state agency which is the equivalent of Louisiana's Board of Elementary and Secondary Education) of the state in which the school is located (See §1701.A.4.); or

d. i successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

iii. if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school; and

e. graduate from a high school defined in §1701.A.5 or successfully complete at the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories;

f. successfully complete a minimum of ten units in honors curriculum courses graded on a 5.0 scale at and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i. and

6. Have achieved an ACT Score, as defined in §301 of at least:

a. if qualifying under the terms of §703.A.5.a or b;
i. the state's reported prior year ACT composite average, rounded, but never less than 19 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c or d;

i. the state's reported prior year average plus 3 points, rounded, but never less than 22 for the Opportunity Award; or

ii. a 26 for the Performance Award; or

iii. a 30 for the Honors Award; and

c. if qualifying under §703.A.5.e; which is limited to the Opportunity Award only; the state's reported prior year average plus 3 points, rounded, but never less than 22;

d. if qualifying under §703.A.5.f; which is limited to the Performance Award only; a 24; and

7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

8. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

9. agree that awards will be used exclusively for educational expenses.

B. Students qualifying:

1. under §703.A.5.a and b, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

- a. a 2.50 for the Opportunity Award; or
- b. a 3.50 for the Performance or Honors Awards.

2. under §703.A.5.f and graduating in the 2000-2001, 2001-2002, 2002-2003 school years, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. Students qualifying under §703.A.5.a and b, for the Performance Award only, must be certified as graduating in the top 5 percent of the 1997-98 high school graduating class, as defined in LAC 28:IV §1703.B.4, in lieu of completing the core curriculum.

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. Students graduating in academic years 1996-97 and 1997-98 who qualify under §703.A.5.b.iv, (graduates who did not complete one year of high school foreign language), must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year.

F. In the event that a student applicant was determined ineligible by the administering agency for an award under this program or for a higher level award than that initially offered the student and such determination was based upon data that was subsequently found to be in error, then the student's eligibility shall be reevaluated based upon the corrected data and, if found eligible, the student shall be offered the award for which he qualifies. The award shall begin with the academic year during which the reevaluation occurred and eligibility first established. The requirement that a student be a first-time freshman shall be waived for those students who are determined eligible under these circumstances subsequent to the commencement of their postsecondary education.

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. The college early admissions program is one that meets the requirements of the Louisiana Department of Education as set forth in the latest edition of Bulletin 741.

b. The student has satisfied all core curriculum requirements not completed in high school by making passing scores on equivalent college courses.

c. The college courses taken to satisfy core curriculum requirements and the grades reported on those courses are reflected in the student's official high school records. The student is awarded a high school diploma and the grade point average and core curriculum are certified to

LASFAC by the high school in the same manner as that of other high school graduates .

d. The student's core curriculum requirements are completed no later than the conclusion of the first two semesters or three quarters of college attendance following entrance into the college early admissions program.

2. A student 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 §301, not earlier than the first semester following the Academic Year (High School) in which the student graduated. A student who 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 actually 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 LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Award funds, 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. submit the Renewal FAFSA in accordance with §501.B; and

3. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. continue to enroll and accept the TOPS award as a full-time undergraduate student in an Eligible College or University defined in §301, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; and

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. maintain Steady Academic Progress as defined in §301; and

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; and

11. has not received a baccalaureate degree; and

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. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.a.9.b., but who meet the continuation requirements of §705.A.9.a., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award. To be reinstated, the student must request reinstatement for the semester following the lifting of academic probation and/or the achievement of the required GPA by submitting a written request to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and enclosing a certified original transcript from the school attended. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or legal guardian or

incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If an ineligible student has received an award due to an administrative error or incorrect certification, the administering agency will not pursue recoupment from the student of funds that were awarded. If an erroneous award has been made and the administering agency determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or legal guardian, the administering agency may seek reimbursement from the student, the student's parent(s) or legal guardian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or legal guardian, then the administering agency shall refer the case to the Attorney General for investigation and prosecution. If a student or the student's parent(s) or legal guardian is suspected of having intentionally misrepresented the facts which were provided to the administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

D. It is the student's responsibility to ensure that all requirements necessary to maintain award eligibility are completed. The Office of Student Financial Assistance shall only consider the official report of grades and hours earned which are received from the school attended. Students should be aware that individual school policies may affect the reporting of grade point average and hours earned for the academic year and accordingly, should become familiar with these policies.

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 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26, 1996, 2001 (September 2000), LR 27:

Chapter 8. TOPS-TECH Award

§801. General Provisions

A. Legislative Authority. The TOPS-TECH Award was created by Act of the 1998 First Extraordinary Session of the Louisiana Legislature.

B. Description, History and Purpose. The TOPS-TECH award is a merit based scholarship program for Louisiana residents pursuing skill, occupational or technical training at Eligible Colleges and Universities that offer 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. TOPS-TECH shall be first awarded beginning with the 1998-99 academic year to 1998 high school graduates and graduates in subsequent years.

D. TOPS-TECH provides an Award as follows:

1. For any student attending an eligible public college or university that does not offer an academic undergraduate

degree at the baccalaureate level or higher, the amount shall equal the actual cost of tuition.

2. For any student attending an Eligible College or University other than as provided for in Subsection D.1 above, the amount shall be the Average Award Amount (TOPS-Tech) defined in §301.

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 26:1997 (September 2000), LR 27:

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided;

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV; and

3. submit the completed initial 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. 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 college or university defined in §301, and:

a. if graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or

b. if the student joins the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; or

c. if the student is eligible under the provisions of §803.A.5.d, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completed the home study program, which is deemed to be May 31st; or

d. if the student is eligible under the provisions of §803.A.5.d and has joined and is on active duty with the United States Armed Forces within one year of the date the

student completed the home study program, which is deemed to be May 31st, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the date the student completed the home study program, or within one year from the date of discharge, whichever is earlier; and

5. graduate from:

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

b. an *out-of-state high school* defined in §1701.A.4; or

c. an out of country high school defined in §1701.A.5; or

d.i. successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

iii. if having previously attended an eligible high school defined in §1701A1, 2, 3, 4, or 5, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school;

6. if qualifying under the terms of §803.B.5.a, at the time of high school graduation,:

a. have successfully completed one of the following core curriculums:

i. 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5.; or

ii. For students graduating in the 2000-2001 school year and thereafter, the high school course work constituting the following TOPS-TECH core curriculum:

Core CurriculumCTOPS-TECH Award:

Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute one unit of Business English.
1	Algebra I; or both Algebra I, Part I and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II.
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Discrete Mathematics, or Probability and Statistics (two units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the three required math units.
1	Biology.
1	Chemistry or Applied Chemistry.
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology.
1	American History.
1	World History, Western Civilization, or World Geography.
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic).
Remaining core courses shall be selected from one of the following options:	

Option 1	Total of 17 units.
1	Fine Arts Survey or substitute two units of performance courses in music, dance, or theater; or substitute two units of visual art courses; or substitute two units of studio art courses; or a course from the career and technical program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute one unit as an elective from among the other subjects listed in this core curriculum.
2	Foreign Language, Technical Writing, Speech I or Speech II.
1	One unit from the secondary computer education program of studies that is approved by the BESE.
or	
Option 2	Total of 19 Units
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course includes computer courses and courses listed as Technology Education courses listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741.

or

iii. For students graduating through the 2000-2001 school year, the TOPS-TECH core curriculum as follows:

Core Curriculum TOPS-TECH Award:

Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units).

1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)
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b. for students in graduating classes prior to 2004, core units may be waived upon sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

* * *

7. have achieved an ACT Score, as defined in §301, of at least:

a. if qualifying under §803.A.5.a, an ACT composite score of at least 17;

b. if qualifying under §803.A.5.b, c, or d, an ACT composite of at least 20; and

8. if qualifying under §803.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least 2.50; and

9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

10. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

11. agree that awards will be used exclusively for educational expenses.

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 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH 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. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. continue to enroll and accept the TECH award as a full-time student in an eligible college or university defined in §301, and maintain an enrolled status throughout the school term, unless granted an exception for cause by LASFAC; and

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. Students failing to meet the requirements listed in §805.A.8 and 9 may have their tuition awards reinstated upon achieving Steady Academic Progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility

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 26:1997, 2002 (September 2000), LR 27:

Chapter 9. TOPS Teacher Award

§901. General Provisions

A. Legislative Authority. The TOPS Teacher Award Program was created by Act 476, of the 1997 Regular Session of the Louisiana Legislature and amended by Act 165 of the 1998 First Extraordinary Session of the Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1(A)(3) and (4), (B), (C), and (D) and 3042.2(A) and (B); reenacted R.S. 17:3042.1(A)(5) and (6) and 3042.8; and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state as defined by the U. S. Department of Education;

2. was first funded for the 1997-98 award year;

3. was created to provide an incentive for Louisiana's best and brightest students to become tomorrow's classroom teachers and to provide an incentive that will attract highly qualified teachers in mathematics and chemistry at the elementary and secondary school levels.

C. Award Amounts

1. Loans are made in the amount of up to \$6,000 per award year for mathematics and chemistry majors.

2. Loans are made in the amount of up to \$4,000 per year for teacher education majors other than those listed in §901.C.1.

3. Recipient may receive a maximum of four years of funding.

4. Recipients receive one half of the annual award (\$3,000 or \$2,000, respectively) at the beginning of the fall and spring terms.

5. Recipients may, in conjunction with the Teachers Award, receive another TOPS Award.

6. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS-Teacher Award shall be reduced by the amount of any remaining over 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 LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), LR 27:

§903. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. Be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to July 1 of the Award Year; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. either;

a. graduate from a Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved public or nonpublic high school; and

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §703.A.1.a of LAC 28:IV; and

ii. at the time of high school graduation, have attained a composite score on the ACT Test or the Scholastic Aptitude Test (SAT) which is, or is equivalent to, at least a 23 on the 1990 version of the ACT; and

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted; or

b. if by the end of June in the year of application, the student will have completed 24 or more but less than 48 hours of graded college credit, have at least a 3.25 cumulative college grade point average on a 4.00 scale; or

c. if by the end of June in the year of application, the student will have completed 48 or more hours of graded college credit, have at least a 3.00 cumulative college grade point average on a 4.00 scale; or

d. have received a baccalaureate degree from an accredited college or university and have a cumulative undergraduate grade point average of at least 3.00 calculated on a 4.00 scale; or

e. have received at least a master's degree from an accredited college or university; and

5. complete and submit such documentary evidence as may be required by LASFAC by the deadline specified in §503; and

6. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses; and

9. enroll during the fall term at an eligible college or university, as defined in §1901, as a full-time student, as defined in §301, in a degree program or course of study leading to a degree in education or an alternative program leading to regular certification as a teacher at the elementary or secondary level in mathematics or chemistry.

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 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), repromulgated LR 27:

§905. Selection Criteria

A. Recipients are competitively selected for the award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

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 24:638 (April 1998), amended LR 24:1907 (October 1998), repromulgated LR 27:

§907. Maintaining Eligibility

A. To continue receiving the TOPS Teacher Award, recipients must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Teacher Awards; and

2. by the end of each academic year, earn a total of at least 24 hours college credit during the fall and spring semesters or fall, winter and spring quarters, as determined by totaling the earned hours reported by the institution for each semester in the academic year. These hours shall not include remedial course work nor hours earned during summer sessions or intersessions or by advanced placement course credits; (See also §705.D) and

3. achieve a cumulative GPA of at least a 3.00 calculated on a 4.00 scale at the end of each academic year; and

4. maintain Steady Academic Progress as defined in §301; and

5. continue to enroll each subsequent semester or quarter as a full-time student in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; or

6. enter a program approved by the State Board of Elementary and Secondary Education (BESE) which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

7. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline; and

8. have no criminal convictions, except for misdemeanor traffic violations; and

9. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Recipients who do not maintain eligibility under the provisions of §907.A.3 and 4, may be reinstated upon attainment of the required GPA and achieving the GPA required for Steady Academic Progress, as defined in §301, provided the period of ineligibility did not exceed two years.

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 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26: (January 2000), LR 26: (April 2000), repromulgated LR 27:

§909. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program Promissory Note by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an *economically disadvantaged region* of the state, as defined by the U. S. Department of Education, teach one year for every two years of funding received, or repay the funds received, plus accrued interest and any collection costs incurred.

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 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), repromulgated LR 27:

§911. Discharge of Obligation

A. The loan may be discharged by teaching for the required period of obligation, by monetary repayment or by cancellation.

B. Discharging the loan by teaching fulfillment is accomplished by:

1. within two years of the date of certification as a teacher, perform service as a full-time classroom teacher in a Louisiana Board of Elementary and Secondary Education (BESE) approved, provisionally approved, or probationally-approved elementary or secondary school;

2. each year of full-time service as a teacher will fulfill an equivalent period of funding. However, if teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state, as defined by the U. S. Department of Education, one year of teaching will fulfill two years of funding;

3. the first two full semesters of full-time teaching will be applied toward the earliest dated disbursement not previously paid under §911.C, the second two full semesters the next earliest dated disbursement, and continuing until all disbursements have been fulfilled;

4. teaching to discharge the loan must be completed within six years from the date of certification as a teacher.

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest will accrue on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement will accrue from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first of the month following:

a. determination by LASFAC that the recipient cannot discharge the loan by teaching within the required time period;

b. the date the recipient notifies LASFAC that monetary repayment is desired; or

c. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level;

4. the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferment of Repayment Obligation;

6. during the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue;

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

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

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:

Chapter 11. Rockefeller State Wildlife Scholarship

§1101. General Provisions

A. Legislative Authority. The Louisiana State Wildlife Scholarship Program was created and amended by the following Acts of the Louisiana Legislature:

1. Act 807 of the 1980 Regular Legislative Session;
2. Act 849 of the 1987 Regular Legislative Session;

3. Act 707 of the 1989 Regular Legislative Session.

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program was established in 1980 and is funded with dedicated monies and offers competitively awarded scholarships valued at \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife;

2. In accepting the Rockefeller State Wildlife Scholarship, the student agrees to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees. If the student fails to successfully complete an eligible course of study, as per the agreement made between LASFAC and the student, the funds must be repaid with interest.

C. Award Amounts

1. The annual award is \$1,000.

2. The cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.

3. The award is disbursed at the rate of \$500 each fall and spring term.

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). Promulgated LR 24:639 (April 1998), amended LR 24:1908 (October 1998). Repromulgated LR 27:

§1103. Establishing Eligibility

To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least one year prior to July 1 of the Award Year; and

3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §503.B.; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. agree that award proceeds will be used exclusively for educational expenses; and

8. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

9.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12 and have taken the ACT or SAT and received test score results; or

b. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average.

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 24:639 (April 1998), amended LR 24:1908 (October 1998), repromulgated LR 27:

§1105. Selection Criteria

A. Recipients are competitively selected for an award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

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 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:

§1107. Maintaining Eligibility

A. To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1. have received the scholarship for not more than seven academic years (five undergraduate and two graduate); and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total graduate credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status unless granted an exception for cause by LASFAC; and

3. achieve a cumulative grade point average of at least 2.50 at the end of the first academic year and each academic year thereafter; and

4. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by LASFAC; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

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 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:

§1109. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (LASFAC-Form RS02), by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:

§1111. Discharge of Obligation

A. The loan obligation may be discharged by graduation in an eligible major, monetary repayment or cancellation.

B. Graduation In an Eligible Major. Awards to undergraduates are discharged by the recipient's attainment of a bachelor's degree; graduate awards are discharged by attainment of a master's or doctorate degree in wildlife, forestry or marine science.

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. interest accrues on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement accrues from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first day of the month following:

a. the date the recipient notifies LASFAC that monetary repayment is desired; or

b. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in wildlife, forestry or marine science;

4. the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B, titled Deferment of Repayment Obligation;

a. during the period of time a recipient is in deferment status, the recipient is not required to make payments and interest does not accrue;

b. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

2. upon submission to LASFAC of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. Legislative Authority

1. Federal

- a. Title IV of the Higher Education Act of 1965;
- b. 34 CFR Part 692, as amended;
- c. Title IV of the Higher Education Amendments of

1992 (Public Law 102-325).

2. State

- a. R.S. 17:3032.5;
- b. Act 632 of the 1974 Regular Legislative Session;
- c. Act 228 of the 1977 Regular Legislative Session.

B. Description, History and Purpose. The Louisiana Leveraging Educational Assistance Partnership (LEAP) Program, first funded in 1975, provides need-based grants to academically qualified students using federal and state funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

C. Louisiana administers a decentralize LEAP Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana LEAP Program must have federal eligibility and must annually submit a state application and be approved for state participation. Funding available for a specific award year is allocated to eligible in-state postsecondary institutions who select and certify recipients to LASFAC. LASFAC forwards award funding to the institutions for disbursement to the student or student's account.

D. Award Amounts. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the financial aid office at the institution and is governed by the number of recipients selected and the amount of funds available. Awards are based upon a full academic year, excluding summer sessions and intersession, beginning with the fall term and concluding with the spring term.

E. Allocation of Funds. Annually, funds are allocated to postsecondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received LEAP are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four year schools and 40 percent for two-year schools.

F. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and January 1 for proprietary schools and campuses of Louisiana Technical College. The method of reallocation is dependent upon the amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two- and four-year colleges and universities, which have fully

committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:

§1303. Establishing Eligibility

LEAP applicants must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and registered with the Selective Service, if required; and
2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the Award Year; and
3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by the state deadline defined in §503 and any deadline imposed by the institution attended; and
4. have a high school diploma with at least a 2.00 cumulative grade point average, or a minimum average score of 45 on the General Educational Development (GED) test, or an ACT composite score of at least 20, or a postsecondary grade point average of at least 2.00 from the most recent term; and
5. be selected and certified by the school for receipt of an LEAP award, contingent upon final approval by LASFAC; and
6. meet any additional selection criteria established by the individual institution participating in the LEAP Program; and
7. be certified as a full-time undergraduate student in an eligible program at an eligible postsecondary institution, as defined in §1901; and either:
 - a. be enrolled full time at the time of disbursement if disbursement occurs at the end of the fourteenth class day (ninth class day for Louisiana Tech); or
 - b. be enrolled full time at the end of the fourteenth class day (ninth class day at Louisiana Tech) and is enrolled at least half-time at the time of disbursement if disbursement occurs after the fourteenth class day (ninth class day at Louisiana Tech); and
8. have substantial financial need, as defined in §301; and
9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
10. not have a criminal conviction, except for misdemeanor traffic violations; and
11. agree that the award proceeds will be used exclusively for educational expenses; and
12. not be in default of an educational loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1459 (August 1999), LR 27:

§1305. Maintaining Eligibility

A. To continue receiving an LEAP Award, the recipient must meet all of the following criteria:

1. meet all of the initial eligibility criteria listed in §1303; and

2. maintain a cumulative postsecondary grade point average of at least 2.00 calculated on a 4.00 scale by the conclusion of the spring term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25: 1459 (August 1999), repromulgated LR 27:

Chapter 15. T. H. Harris Scholarship

§1501. General Provisions

A. Legislative Authority

1. R.S. 17:3036.1;
2. Act 24 of the 1938 Regular Legislative Session;
3. Act 199 of the 1940 Regular Legislative Session;
4. Act 19 of the 1942 Regular Legislative Session;
5. Act 499 of the 1948 Regular Legislative Session;
6. Act 83 of the 1977 Regular Legislative Session;
7. Act 710 of the 1985 Regular Legislative Session;
8. Act 663 of the 1990 Regular Legislative Session.

B. Description, History and Purpose. The T. H. Harris Scholarship Program was first funded with state general funds in 1942 for the purpose of granting scholarships to deserving youth enrolling at state-supported colleges or universities. A maximum cumulative award, assuming the recipient maintains eligibility, is \$2,000 for five years of study. Effective with award year 1996-97, applications are not being accepted and the program is being phased out. Students awarded during the 1995-96 award year, continue to receive an award, as long as funds are available and they maintain continuing academic eligibility.

C. Award Amounts. The annual award is \$400, with a cumulative maximum award of \$2,000 for five years. Recipients receive \$200 each fall and spring term, less a \$5 award fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), repromulgated LR 27:

§1503. Maintaining Eligibility

A. To continue to receive T. H. Harris Scholarship funds, recipients must meet all of the following criteria:

1. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
2. agree that award proceeds will be used exclusively for educational expenses; and
3. continue to enroll as a full-time undergraduate student in a two- or four-year public college or university, unless granted an exception for cause by LASFAC; and
4. successfully complete the minimum number of hours required for a full-time student as defined in §301; and
5. achieve a cumulative grade point average of at least 3.00, on a 4.00 scale, at the conclusion of the spring term each academic year; and
6. have received less than 10 semesters of T. H. Harris funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), repromulgated LR 27:

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. eligible Non-Louisiana High Schools -eligible non-Louisiana high schools are high schools which meet all of the following:

a. are in a state adjoining the state of Louisiana; and

b. have provided LASFAC with acceptable evidence of an agreement dated prior to June 5, 1994, between a parish school system in the state of Louisiana and the high school's local governing authority, which authorizes the attendance of students who are residents of Louisiana; and

c. have students who graduate during the academic year preceding the award year, who were residents of Louisiana and who were funded through the Louisiana minimum foundation program; and

d. have certified the academic performance of Louisiana graduates, in accordance with §1703;

4. Out-of-State High Schools

a. All other public or non-public high schools located in one of the United States or territories of the United States, other than Louisiana, which have been approved by the state or territory's chief school officer as listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's or territory's equivalent of the Louisiana Board of Elementary and Secondary Education (BESE), or which high school has been approved by the Southern Association of Colleges and Schools' Commission on Secondary and Middle Schools and can demonstrate that it meets the standards adopted by BESE for approval of

nonpublic schools of Louisiana as set forth in §1701.A.2, above, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

i. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the State Student Incentive Grant Programs;

ii. graduates of out-of-state high schools who are Louisiana residents or the dependents of a Louisiana resident serving on active duty with the Armed Forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS.

b. a school will be deemed to be approved by the appropriate state agency if that state agency certifies:

i. that the high school in question received funding from the state to cover all or a portion of the costs of instruction; and

ii. that the high school in question adopted and does adhere to state and federal non-discrimination policies and statutes.

5. Out of Country High Schools. All other public or non-public high schools located outside the United States or the territories of the United States that meet the standards adopted by BESE for approval of nonpublic schools in Louisiana and which are accredited by an accrediting organization recognized by the United States Department of Education.

B. Non-high school graduates who have earned a General Education Diploma (GED) in lieu of a high school diploma are eligible to participate in the Leveraging Educational Assistance Partnership (LEAP) Grant Program and if they have completed a BESE approved home study program, are eligible to participate in TOPS.

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 IR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR26:68 (January 2000), LR 26:1997 (September 2000), LR 27:

§1703. High School's Certification of Student Achievement

A. Responsibility for Reporting and Certifying Student Performance

1. Responsibility for the identification and certification of high school graduates who meet the academic qualifications for a TOPS award is as follows:

a. the principal or the principal's designee for public high schools;

b. the principal or headmaster or designee of each nonpublic high school approved by the State Board of Elementary and Secondary Education (BESE);

c. the principal or headmaster or designee of an eligible non-Louisiana high school;

d. the principal or headmaster or designee of an out-of-state high school is responsible only for providing the high school transcript or the date of graduation for those students who have applied for a student aid program administered by LASFAC.

2. The Louisiana Department of Education shall report to LASFAC the names of students who are enrolled in and have completed all mandatory requirements through the twelfth grade level of a state-approved home study program.

B. Procedures for Reporting and Certifying Student Performance

1. The responsible high school authority shall record student performance on the form provided by LASFAC or in an electronic format pre-approved by LASFAC. The certification form shall be completed, certified and returned to LASFAC by the deadline specified on the form.

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

a. student's name, address, phone number and social security number;

b. month and year of high school graduation;

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

d. through the graduating class of the Academic Year (High School) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended;. After the graduating class of the Academic Year (High School) 2002-2003, core unit requirements may not be waived.

3. The responsible high school authority shall certify to LASFAC the final cumulative high school grade point average of each applicant and that average shall be inclusive of grades for all courses attempted and shall be computed and reported on a maximum 4.00 grading scale.

a. The following grading conversion shall be used to report the applicant's cumulative high school grade point average:

i. letter grade A = 4 quality points;

ii. letter grade B = 3 quality points;

iii. letter grade C = 2 quality points;

iv. letter grade D = 1 quality point.

b. Schools which award more than 4 quality points for a course must convert the course grade to a maximum 4.00 scale using the formula described in the example that follows.

[In this example, the school awards one extra quality point for an honors course.]

i. Example: an applicant earned a C in an Honors English IV course and received 3 out of the 5 possible quality points that could have been awarded for the course.

ii. In converting this course grade to a standard 4.00 maximum scale, the following formula must be used:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

iii. In this example, the quality points for this Honors English IV course should be recorded as 2.40 when the school calculates and reports the student's cumulative high school grade point average.

4.a. - d. Repealed

C. Certifying 1998 Graduates for the TOPS Performance Award. 1998 Graduates who are ranked in the top 5 percent of their graduating class in accordance with §1703 shall be credited with having completed the core curriculum for purposes of the TOPS; however, only those meeting the following criteria shall be eligible for the Performance Award:

1. those students who have attained a final cumulative high school grade point average of at least a 3.50 on a 4.00 maximum scale; and

2. an ACT score of at least 23.

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

1. all data supplied on the certification form are true and correct, to the best of his knowledge or belief, and that they reflect the official records of the school for the students listed; and

2. records pertaining to the listed students will be maintained and available upon request to LASFAC and the legislative auditor for a minimum of three years or until audited, whichever occurs first; and

3. the school under the principal's jurisdiction shall reimburse LASFAC for the amount of a program award which was disbursed on behalf of a graduate of the school, when it is subsequently determined by audit that the school incorrectly certified the graduate.

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 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:2269 (October 2000), LR 27:

§1705. Notification of Certified Students

A. High schools are required to present a certificate of achievement during the graduation ceremony or other school reception to students qualifying as recipients of TOPS Performance and Honors Awards.

B. High schools are required to invite members of the Louisiana Legislature representing the school's district to attend the ceremony or reception and to make the presentation awarding the endorsed certificates of achievement.

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student:

"Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. You must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and

2. You must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and

3. You must annually apply for federal student aid by the deadline required for consideration for state aid; and

4. You must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

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 24:644 (April 1998), amended LR 24:1913 (October 1998). Repromulgated LR 27:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), TOPS-TECH, Rockefeller State Wildlife Scholarship, Leveraging Educational Assistance Partnership (LEAP) Program and the T. H. Harris Scholarship.

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), TOPS-TECH, and LEAP. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Theological Seminary, Our Lady of the Lake College, 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. Approved Louisiana proprietary and beauty schools are authorized to participate in LEAP only.

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 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August, 1999), LR 26: 1998 (September 2000), LR 27:

§1903. Responsibilities of Postsecondary Institutions

A. Certification of Student Data. Upon request by LASFAC, and for the purpose of determining an applicant's eligibility for a program award, an institution will report the following student data:

1. admission and full-time undergraduate enrollment; and

2. eligibility for, or enrollment in, a course of study leading to initial teacher certification; and

3. enrollment in math or chemistry as a major while pursuing teacher certification; and

4. graduate or undergraduate enrollment in wildlife forestry or marine science; and

5. cumulative college grade point average; and

6. cumulative college credit hours earned;

7. academic year hours earned.

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. institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS award; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full-time, as defined in §301, at the end of the fourteenth class day (ninth class day for Louisiana Tech, first class day

for campuses of Louisiana Technical College, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth class day, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

3. in the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS award shall be reduced by the amount of any remaining over award;

4. annually, two- and four-year institutions are required to provide LASFAC a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule;

5. campuses of Louisiana Technical College are exempt from furnishing a schedule of fees, but must bill LASFAC on the first class day of each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BES E) for full-time attendance; and

6. certify that the institution will reimburse LASFAC for any award funds incorrectly disbursed to ineligible students; and

7. upon the school's certification that a recipient of a TOPS Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. public two- and four-year colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance;

c. LAICU member colleges and universities may bill for an amount up to the weighted average tuition, as defined in §301;

d. for recipients of the Performance and Honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively.

8. upon the school's certification that a recipient of a TOPS-TECH Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public colleges and universities that do not offer an academic undergraduate degree at the baccalaureate level may bill for an amount up to the tuition for that institution, as defined in §301;

b. all other Eligible Colleges and Universities may bill for an amount up to the Average Award Amount (TOPS-Tech), as defined in §301; and

9. 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. Annual Application for Participation in, and Certification of Recipients of the LEAP Program

1. Annually, LASFAC forwards LEAP institutional participation agreements to those schools participating in the program during the prior award year, and upon written requests received, to schools not participating in the LEAP Program during the prior award year. To be eligible for allotment of LEAP funds the institution must meet all of the following requirements:

a. complete and return the annual LEAP application by the specified deadline; and

b. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for LEAP; and

c. certify that students listed on the recipient roster meet federal, state and institutional specific LEAP eligibility criteria; and

d. certify that if the institution's LEAP allotment is based in part on the financial need of independent students, as defined by the U.S. Department of Education, a reasonable portion of the institution's allotment is being made available to independent students; and

e. certify that each LEAP recipient's total package of aid does not exceed the student's financial need; and

f. certify that LEAP funds recovered from over awards, refunds, and/or repayments, as defined in §301, during the applicable award period shall be returned to LASFAC to be reissued to other qualified students. Funds recovered from over awards, refunds and/or repayments after the applicable award period shall be returned to LASFAC for return to the U.S. Department of Education and/or the state of Louisiana. The amount of over award, refund and/or repayment shall be determined according to the school's policy established in accordance with federal regulations.

2. Annually, LASFAC provides eligible institutions an official allotment schedule, recipient roster and institution certification forms. Institutions are required to:

a. complete and return recipient rosters and institutional certification forms to ensure expenditure of allotted LEAP awards by the school specific deadlines of November 1 for public and LAICU member two- and four-year colleges and universities and January 1 for campuses of Louisiana Technical College and proprietary institutions; and

- b. submit changes to the recipient roster by completing a replacement roster, provided by LASFAC; and
- c. certify that if any LEAP funds are released in error to ineligible students, the institution will either recover the award amount from the students and refund to LASFAC or remit the refund due.

D. Disbursement of Funds. Upon receipt of award funds and prior to their disbursement to students, the institution shall:

1. for TOPS Teacher Award recipients:
 - a. verify that the recipient is enrolled full-time in an approved degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or
 - b. if designated as a math or chemistry major, verify enrollment in a course of study leading to certification as a math or chemistry teacher;
2. for Rockefeller State Wildlife Scholarship recipients, verify undergraduate or graduate enrollment, whichever is applicable to the student, in:
 - a. Wildlife, Forestry or Marine Science; or
 - b. another major specified by the Louisiana Department of Wildlife and Fisheries as meeting their criteria for receipt of scholarship funds;
3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the T. H. Harris Scholarship, Rockefeller State Wildlife Scholarship, TOPS Teacher Award and LEAP must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each academic year, the institution will complete and return to LASFAC, a College Academic Grade Report including, but not limited to, the following data elements:

1. academic year hours earned; and
2. cumulative hours earned; and
3. cumulative grade point average;
4. academic standing, and if applicable, date of placement on academic probation; and
5. upon graduation, degree date and type and name of degree.

F. Records Retention. Records pertaining to the students listed on the billing certification form will be subject to audit as required by state statute. Such records will be maintained for a minimum of three years and be available upon request to LASFAC and the Louisiana legislative auditor.

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 LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25: 1459 (August 1999), LR 26:1998, 2002 (September 2000). LR 27:

Chapter 21. Miscellaneous Provisions and Exceptions

§2101. Academic Suspension of Awards and Reinstatement

A. Students denied an award for their failure to maintain the required cumulative grade point average or for their failure to maintain Steady Academic Progress, as defined in §301, may be reinstated upon attainment of the required cumulative grade point average, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated are ineligible for annual stipends.

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 24:646 (April 1998), amended LR 24:1915 (October 1998), LR 26:68 (January 2000). Repromulgated LR 27:

§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 college or university defined in §301. Initial enrollment requirements specific to the TOPS are defined at §703A.4 and for TOPS-TECH at §803A.

B. Continuous Enrollment Requirement. To maintain eligibility, all scholarship programs require recipients to continue to enroll as full-time students, as defined in §301, each consecutive semester or quarter, excluding summer sessions and intersession, at two- and four-year colleges and universities. Recipients who cannot meet this requirement may be granted an exception for cause, as determined by LASFAC.

C. Less Than Full-Time Attendance. 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:

1. requires less than full-time enrollment to complete the undergraduate degree; or
2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or
3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an application for an exception, with documentary evidence, to the Office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year, the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement into TOPS. Commencing with the 2001-2002 academic year, the student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation.

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 by LOSFA for an exception provided in §2103.E.11.a.ii, 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 a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document 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, stepparent, 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; and

iii. if a temporary disability of another, a statement from the family member or a qualified professional confirming the care given by the student.

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, stepparent, 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 quarters.

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitate full or partial withdrawal from, or non-enrollment in an eligible postsecondary institution.

i. The following situations are not exceptional circumstances:

(a). 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.

(i). For students graduating from high school in 2001 and thereafter, making financial commitments or

accepting an academic or athletic scholarship or grant to attend a postsecondary institution outside of Louisiana.

(j). An involuntary drop, suspension, or withdrawal from enrollment because of academics, scholastics, or failure to attend classes or to comply with institutional regulations.

(k). A suspension or expulsion for misconduct.

(l). An inability to register because of failure to satisfy financial obligations.

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: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:

§2105. Repayment Obligation, Deferment and Cancellation

A. Monetary Repayment. Recipients of the Rockefeller State Wildlife Scholarship who do not meet their obligation to obtain a degree in wildlife, forestry or marine science and recipients of the TOPS Teacher Award who do not fulfill their obligation to teach the required number of years and who are not eligible for Discharge by Cancellation, must repay the loan principal plus accrued interest as delineated in §§1111 and 911, respectively.

B. Deferment of Repayment Obligation. Recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status may have their payments deferred for the following reasons.

1. Parental Leave

a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.

b. Certification Requirements. Certification by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

c. Acceptable Documentation. Includes dates of required leave of absence, the number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

d. Filing Requirements. The recipient must request by letter, with the required certification and documentation, within 60 days after the occurrence of the qualifying event.

e. Maximum Length of Deferment. Up to one academic year.

2. Rehabilitation Program

a. Definition. The recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

b. Certification Requirements. Certification by a rehabilitation counselor or doctor of medicine.

c. Acceptable Documentation. Includes dates of the required leave of absence, the semester(s) or number of days

involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request, with the required certification and documentation, within 60 days after occurrence of the qualifying treatment.

e. Maximum Length of Deferment. Up to two academic years.

3. Temporary Disability of Recipient, Child, Parent, Spouse, or Guardian

a. Definition. Temporary total disability of recipient or recipient's dependent, parent, guardian or spouse of whom recipient is primary care-giver.

b. Certification Requirements. Certification by a qualified physician.

c. Acceptable Documentation. Includes dates of the required leave, the length of the recovery or disability period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request with the required certification and documentation no earlier than 30 days but within 60 days after the occurrence of disability.

e. Maximum Length of Deferment. A deferment under §2105.B.3 for Temporary Disability of the Maker shall not exceed 36 months. A deferment under §2105.B.3 for Temporary Disability of any other person shall not exceed 12 months.

4. Military Service, Peace Corps, National Service Corps, VISTA

a. Definition. The recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders.

c. Acceptable Documentation. Includes dates of required leave of absence, the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. Filing Requirements. The student/recipient must file a written request with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. Maximum Length of Deferment. Up to the length of the required service period.

5. Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher; or

6. Recipient is:

a. seeking and unable to find full-time employment for a single period not to exceed 12 months; or

b. seeking and unable to find full-time teaching employment at a qualifying Louisiana school for a period of time not to exceed 27 months.

C. Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient;

2. complete and permanent disability of the recipient which precludes the recipient from gainful employment.

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

HISTORICAL NOTE: Promulgated LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:

§2107. Funding and Fees

A. Limitation of Terms Funded

1. Routine funding for all Scholarship and Grant Programs is limited to the fall, winter and spring school terms.

2. Extensions will be granted for the TOPS Opportunity, Performance, and Honors Awards for an institution's educational programs that require recipients to attend summer sessions to complete the program's mandatory courses when such courses are not offered during regular terms.

B. Fees. The LASFAC may charge a variable fee not to exceed \$10 for each award check processed for recipients of the T.H. Harris Scholarship. This fee will be charged only if the Louisiana Legislature fails to appropriate sufficient state general funds for administration of this program. The LASFAC, at its discretion, may automatically deduct the fee from each T.H. Harris Scholarship award check.

C. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards 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:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

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. After the elimination of students under §2107.D.2.a, if funds are still insufficient to award all of those students who remain eligible for award year 1998-99, then those students qualified by the actions of the First Extraordinary Session of 1998 shall be funded only after all awards to all students who are eligible pursuant to the requirements of this Chapter as they existed prior to any Act of the 1998 First Extraordinary Session of the Legislature

are fully funded. Students qualified by actions of the First Extraordinary Session of 1998 include the following:

i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;

ii. students qualified as Exceptional Students/Students with disabilities;

iii. students who graduated from out-of-state high schools; and

iv. students who completed an Approved Home Study Program.

c. After the elimination of students in §2107.D.2.a and b, if funds are still insufficient to award all of the remaining students, then those who remain will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of \$1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students with the highest EFC shall be eliminated until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.

d. After the elimination of students in §2107.D.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.D.2.b, then those students made eligible by such Act shall be rendered ineligible by application of §2107.D.2.c, above, until funds available are sufficient to award all remaining students.

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.D.2, if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower EFC, shall be the first to be awarded by reversing the procedure described in §2107.D.2.c.

E. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

F. Transferability of Funds. A student receiving an award under the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship and/or the T.H. Harris Scholarship may have his award transferred to another postsecondary institution which is authorized to participate in these programs, as described in §1901. The student must meet all continuation requirements and submit a Scholarship and Grant Transfer Request Form.

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

HISTORICAL NOTE: Promulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:

§2109. Agency Decisions Subject to Appeal

A. Right of Appeal

1. A person aggrieved by an adverse decision of LOSFA under §2103.E.11.a.ii may appeal the decision in accordance with the procedures provided in this section.

2. Appeals are made to the Louisiana Student Financial Assistance Commission (the commission).

3. Decisions of the commission are not subject to appeal and are final actions.

B. Notice of Adverse Decision

1. Notice of an adverse decision by LOSFA under §2103.E.11.a.ii must be transmitted in writing to the applicant or participant. The notice must state with reasonable specificity the decision and the reason for the decision, state that the decision may be appealed, and set forth the procedure for submission of an appeal.

C. Petition of Appeal

1. A petition of appeal must be in writing and filed within 30 days of the date of the notice of the decision.

2. The petition of appeal must include:

a. a sworn affidavit from the petitioner setting forth the basis of the appeal, including the specific reasons that LOSFA's decision is incorrect, and all facts supporting the appeal,

b. copies of all documents, including written statements by others, if any, that support the appeal,

c. official transcripts from the school/colleges attended during the periods in question, and

d. if the petitioner desires to make an oral presentation and/or argument, the petitioner must include in the petition for appeal:

i. a request to make oral presentation and/or argument,

ii. the name of each person who will speak and a brief summary of what each person will say, and

iii. the reasons why presentation of the appeal in writing is not sufficient and that an oral presentation and/or argument is justified.

3. The petitioner is not required to include documents in the petition of appeal which were forwarded with previous correspondence regarding the appeal.

4. The petition of appeal must be addressed to the Louisiana Student Financial Assistance Commission, in care of the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to 1885 Wooddale Boulevard, Wooddale Tower, Room 335, Baton Rouge, Louisiana.

5. Oral presentations and/or arguments.

a. the commission may allow presentations and/or arguments when the commission determines that such extraordinary procedures are justified based on information submitted by the petitioner;

b. LOSFA shall have the right to question the appellant and each person making an oral presentation on behalf of the appellant;

c. the commission's chairman may limit the time available to the appellant to make an oral presentation.

D. Appellate Procedure

1. After receipt of the Petition of Appeal, LOSFA will review the petition of appeal and determine whether the matters included in it are sufficient to change LOSFA's adverse decision. If, based upon new information submitted, LOSFA reverses its decision and approves the appeal, the petitioner will be notified in writing and no further action will be taken on the petition.

2. If LOSFA's decision remains adverse, LOSFA will prepare and forward the appellate's file (including the petition of appeal, the original request for reinstatement, LOSFA records relating to the appeal, and a written

statement of LOSFA's position regarding the appeal to the ad hoc rules committee of the commission.

3. If the petition of appeal contains the appellant's request to make an oral presentation or argument, LOSFA shall notify the appellant in sufficient time to permit the appellant to be present when the appeal is scheduled to be heard by the ad hoc rules committee and the commission.

4. Pending a final decision by the commission, no further action will be taken in the matter by LOSFA.

5. The ad hoc rules committee will review the appellate file and make one of the following recommendations to the commission:

a. recommend that LOSFA's decision be upheld, or
b. recommend that LOSFA's decision be reversed,

or

c. remand the appellate file to LOSFA for further specified action(s), or

d. remand the appellate file to the commission without recommendation.

6. The ad hoc rules committee will forward the appellate file and its recommendation to the commission. The commission will review the recommendations of the committee and the appellate file.

7. The commission may adopt the recommendations of the committee or make a contrary decision approving or reversing LOSFA's decision, or remanding the matter to LOSFA for further specified actions.

8. Remanded matters will be expeditiously processed by LOSFA and returned to the commission for a final decision.

9. A decision of the commission to approve or reverse LOSFA's decision is final and is not subject to further review.

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 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1261 (June 2000), repromulgated LR 27:

§2113. Revision of the Core Curricula

A. LASFAC shall continually consult with BESE and the Louisiana Board of Regents to evaluate the adequacy of the TOPS core curricula to prepare students for postsecondary studies. Upon receipt of a written recommendation to change the core curriculum from BESE or the Louisiana Board of Regents, and to which the other board has concurred, LASFAC shall seek legislative amendment to effect the recommendation.

B. LASFAC is authorized by law to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course. Prior to initiating rule making to authorize a name change, LASFAC must seek the recommendation of BESE and the Louisiana Board of Regents. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the Secondary Programs of Study contained in the Louisiana Handbook for School Administrators (LDE Bulletin 741). Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by LASFAC and such recommendations shall be submitted directly to the Office of

Student Financial Assistance, Attention: Scholarship and Grant Division.

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 24:1921 (October 1998), repromulgated LR 27:

§2115. Procedures for Disabled Students and Exceptional Children

A. As provided for in §703.A.5.b.ii, a core curriculum course shall be waived for a student who is a Disabled Student or an Exceptional Child, as defined in §301, whose school certifies that it has the following documentation.

1. For a student claiming the status of a Disabled Student:

a. a written diagnosis from a person licensed or certified to diagnose the disability of the student, which diagnosis specifies the need for special accommodation by the student's high school; and

b. a written statement from the principal of the high school that a plan of accommodation under Section 504 of the Rehabilitation Act of 1973 ("504 Plan") has been established, and the high school was unable to provide the special accommodation, or, if the special accommodation was provided by the high school, the failure to complete the specified core curriculum course was due solely to the student's diagnosed disability.

2. For a student claiming the status of an Exceptional Child:

a. a written Individual Education Program (IEP) in accordance with R.S. 17:1941 et seq. and Louisiana Department of Education Bulletin 1706, and

b. a written statement from the principal of the high school that the failure to complete the specified core curriculum course was due solely to the student's exceptionality.

B. For Disabled Students graduating prior to the 1999-2000 high school academic year and who are requesting a waiver of a core curriculum course based upon their status as a Disabled Student, those students must provide the documentation provided in §2115.A.1, above, however, those students need not establish the existence of a 504 Plan.

C. A school official must obtain the consent from the student's parent or legal guardian, as required by law, prior to the release of information concerning a student who is requesting a waiver of a core course by reason of that student being a Disabled Student or an Exception Child.

D. If a core curriculum course is waived based upon the determination that a student's disability or exceptionality, then the grade achieved for that course will not be included in the determination of the student's grade point average for purposes of qualifying for a TOPS award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3026, R.S. 3042.1 and R.S. 3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1795 (October, 1999), repromulgated LR 27:

Chapter 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281, of the

1997 Regular Session of the Louisiana Legislature. This bill added R.S. 17:3041.10-3041.15.

B. Description, History and Purpose. The Tuition Payment Program for Medical School Students:

1. annually awards not more than four monetary loans to eligible students who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least two consecutive years in a rural or poor community in Louisiana designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for two consecutive years as provided in these rules, the loans are forgiven in full.

2. was first funded for the 1998-99 award year;

3. was created to provide an incentive for Louisiana's medical school students to practice as primary care physicians in a Designated Area.

C. Award Amounts

1. Loans are made in an amount not to exceed the full tuition and room and board amount for students enrolled at one of the medical schools of Louisiana State University.

2. Recipients may receive a maximum of two years of funding.

3. Recipients may receive other financial awards in conjunction with the Tuition Payment Program for Medical School Students.

4. In the event the student's total aid exceeds the Cost of Attendance as defined in §301 of these rules, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Tuition Payment for Medical School Students shall be reduced by the amount of any remaining over award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1460 (August 1999) LR 25:2177 (November 1999), repromulgated LR 27:

§2303. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. Citizen; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to April 15 of the calendar year in which the award will be made; and

3. submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by April 15th of the calendar years in which an award is being sought (for those students applying for the 1998/1999 academic year, the deadline for filing the FAFSA is extended to March 1, 1999); and

4. be enrolled in the third year of study or later at one of the LSU medical schools as a full-time student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field or has earned such a degree prior to commencement of residency. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice.

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least two consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.D, above; and

6. complete and submit such other documentary evidence as may be required by LASFAC within the deadline specified; and

7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

8. not have a criminal conviction, except for misdemeanor traffic violations; and

9. agree that the award will be used exclusively for educational expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) LR 25:2177 (November 1999), LR 26:2754 (December 2000), repromulgated LR 27:

§2305. Application Process and Selection Criteria

A. The LSU Medical Center shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the Commission, no later than the date specified by the Commission:

1. the academic standing of those applicants who meet the prerequisites of Section 2303.4 and 5. In determining the academic standing of applicants, the LSU Medical Center shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend; and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been identified by the LSU Medical Center and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the list of applicants submitted by the LSU Medical Center, the Commission shall rank the applicants in order of merit and select no more than four individuals to receive the award in any one year (hereinafter "Recipient(s)"). The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the LSU Medical Center and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the Recipient as described in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), repromulgated LR 27:

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein, for two academic years.

B. The loan disbursement will be in two increments during each academic year, unless disbursed subsequent to entering the third year of medical study, in which case any prior disbursements due may be included in the initial disbursement based upon requests for disbursements submitted by the LSU Medical Schools which are consistent

in timing with the normal payment of tuition by medical school students.

C. The loans for each of the two academic years are dependent upon sufficient appropriation by the State Legislature. Should the State Legislature fail to appropriate sufficient funds in each year to provide for the amount of the award agreed to by the Commission and student, the obligation to repay the loan will be remitted.

D. The cost of room and board included in an award under this section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 1087ll.

E. Tuition shall not exceed the fees, charges and other costs normally required to be paid by all medical students at the school attended.

F. The specific award amount for each loan shall be that amount stated in the agreement between the student and the Commission and shall not exceed the tuition and room and board charged at the school attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), repromulgated LR 27:

§2309. Maintaining Eligibility

A. To continue receiving the Tuition Payment for Medical School Students, Recipients must meet all of the following criteria:

1. have received less than two years of funding under the Tuition Payment for Medical School Students; and

2. be considered in good standing by the LSU Medical Center and continue to make satisfactory progress towards a medical degree in a primary care field or have completed studies in good standing; and

3. continue to enroll each subsequent term as a full-time student, unless granted an exception for cause by LASFAC, in a course of study leading to a degree in medicine; and

4. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline; and

5. have no criminal convictions, except for misdemeanor traffic violations; and

6. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Upon graduation from medical school, an award Recipient will be continued in a deferred payment status under the terms of the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note") as long as the Recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The Recipient shall notify LASFAC of the place and duration of the Recipient's residency program no later than the Recipient's date of graduation from medical school. The notice shall include an endorsement from the LSU Medical Center or its designee that the residency program is a program that will lead to the ability to practice as a primary care physician as defined herein. The LSU Medical Center shall make available to the Recipient a list of Designated Areas. The Recipient shall identify the Designated Area in which the Recipient intends to practice medicine and include this selection in the notice sent to LASFAC. By July 30 of each year after graduation

from medical school, the Recipient shall notify LASFAC of the Recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the Recipient is engaged that the Recipient is making satisfactory progress in the program. The Recipient shall notify LASFAC in writing of the completion of the residency program and the date the Recipient will initiate practice in a Designated Area. Each year thereafter, on the anniversary of the date the Recipient enters a primary care practice in a Designated Area, the Recipient shall send a written confirmation to LASFAC that the Recipient has practiced medicine during that year as required under the terms of the Promissory Note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the Recipient has practiced in a Designated Area. Failure of the Recipient to send any of the notices required under the terms of the Promissory Note in a timely manner shall cause the Recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for the second year of the loan will be placed in a repayment status within six months of their loss of eligibility, unless granted an exception for cause by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), repromulgated LR 27:

§2311. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the Recipient must agree to the terms and conditions contained in and execute the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note"). The Promissory Note obligates the Recipient to initiate a primary care practice in a Designated Area upon the completion of a primary care residency program. The Recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full-time practice of medicine as a primary care physician in a Designated Area within six months from the date of completion of the residency program. The Designated Area in which the Recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other Designated Area chosen by the Recipient, with the concurrence of LASFAC, upon completion of the residency program. The Promissory Note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer an area designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals at the time the Recipient finishes the residency program, it shall continue to be considered a Designated Area for purposes of discharge of the loan amount under these rules. The Recipient shall be deemed to be in a full-time primary care practice if the Recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a Recipient fail to enter into the practice of medicine on a full-time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and repaid together with all accrued interest and any collection costs incurred by the Commission, as specified in the Promissory Note.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), repromulgated LR 27:

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full-time primary care medical practice in a Designated Area for a period of two years, by monetary repayment or by cancellation.

B. Discharging the loan by entering into the full-time practice as a primary care physician in a Designated Area is accomplished by:

1. completing a residency in a primary care field of medicine within 4 years of the graduation from medical school; and

2. practice as a primary care physician on a full time basis for a period of at least two consecutive years in a Designated Area.

C. Recipients who fail to complete the medical practice requirements as specified in the Promissory Note shall be required to repay the entire loan obligation in accordance with subsection D, below.

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the Promissory Note and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest shall accrue on the outstanding principal from the date of disbursement to the Recipient, at the rate determined by the Commission and reflected in the Promissory Note, not to exceed the maximum rate of interest which can be legally charged under Louisiana law for such loans. Annually, accrued interest shall be capitalized, meaning added to principal;

2. interest on each disbursement shall accrue from the date of disbursement until repaid, or fulfilled and shall be capitalized annually and at the time the Recipient enters repayment status.

E. Repayment Status.

1. The Recipient will enter into a repayment status the first of the month following:

- a. determination by LASFAC that the Recipient cannot discharge the loan by practicing medicine as required by these rules and the Promissory Note within the required time period; or

- b. the date the Recipient notifies LASFAC that monetary repayment is desired; or

- c. six months after LASFAC determines that the Recipient is no longer participating in a residency program in a primary care medical field or has otherwise failed to comply with the terms of the Promissory Note;

2. the amount to be repaid annually will be the greater of:

- a. the amount necessary to amortize the loan principal together with capitalized and accruing interest within five years; or

- b. \$5,000 per year or the unpaid balance, whichever is less;

3. Recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferment of Repayment Obligation;

4. during the period of time a Recipient is in a deferment status, a Recipient is not required to make payments and interest does not accrue;

5. the period of time for completion of repayment will be extended by a period of time equal to the length of time the Recipient is in deferment status.

F. Cancellation. The obligation to repay any remaining unpaid balance of the Promissory Note shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the Recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the Recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1463 (August 1999), LR 25:2177 (November 1999), repromulgated LR 27:

Mark S. Riley
Assistant Executive Director

0108#028

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI. 101, 107, 301-315)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to re-promulgate and amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

The emergency rules are necessary to implement recent changes in state and federal laws that affect the program, its participants and prospective participants. A delay in promulgating rules would have an adverse financial impact on program participants and residents who contemplate participation. The Authority has, therefore, determined that these emergency rules are necessary to ensure the financial welfare of the program participants and residents who contemplate participation.

This declaration of emergency is effective August 2, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial AssistanceC Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§101. General Provisions

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;

2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;

3. provide the citizens of Louisiana with financing assistance for education and protection against rising tuition costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;

4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and

5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes Education Savings Accounts by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated Beneficiary.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for Earnings Enhancements provided by the state to help offset the Beneficiary's cost of Qualified Higher Education Expenses.

2. The Earnings Enhancement amount is determined by the Account Owner's classification, annual federal adjusted gross income, and total annual deposits of principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), LR 24:1267 (July 1998), LR 26:2260. Amended LR 27:

§103. Legislative Authority

A. Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as Chapter 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3091-3099.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), LR 24:1267 (July 1998), LR 26:2260 (October 2000), LR 27:

§105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the house of representatives and state senate.

B. The LATTA administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), LR 24:1267 (July 1998), LR 26:2260 (October 2000), LR 27:

§107. Applicable Definitions

Account Owner—the person(s), Independent Student, organization or group that completes a Owners Agreement on behalf of a Beneficiary and is the Account Owner of record of all funds credited to the account.

Beneficiary—the person named in the Education Savings Account Owners Agreement as the individual entitled to apply the account balance, or portions thereof, toward payment of their Qualified Higher Education Expenses.

Disabled or Disability—for purposes of this title, an individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he furnishes proof of the existence thereof in such form and manner as the Authority may require.

Earnings Enhancement—a payment allocated to an Education Savings Account, on behalf of the Beneficiary of the account, by the state. The amount of the annual Earnings Enhancement is calculated based upon the Account Owners classification, annual federal adjusted gross income, and total annual deposits of principal. Earnings Enhancements, and the interest earned thereon, may only be used to pay the Beneficiary's Qualified Higher Education Expenses, or portion thereof, at an Eligible Educational Institution and cannot be refunded.

Education Savings Account—a savings account established by an individual, a group of individuals or an organization to pay the Qualified Higher Education Expenses of the designated Beneficiary.

Educational Term—a semester, quarter, term, summer session, inter-session, or an equivalent unit.

Eligible Educational Institution—either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education or a Louisiana licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto.

Enrollment Period—that period designated by the LATTA during which applications for enrollment in the START program will be accepted by the LATTA.

False or Misleading Information—a statement or response made by a person which is knowingly false or misleading and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings—the placement of all deposits in an education savings account, to include the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Fully Funded Account—an account in which the sum of cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon, has equaled or exceeded the amount which is five times the annual Tuition at the highest cost Louisiana public college or university projected to the Scheduled Date of First Enrollment. The projected Tuition at each Eligible Educational Institution shall be updated by the administering agency. On the date of the Beneficiary's first enrollment in an Eligible Educational Institution, the Fully Funded amount will be fixed at five times the annual Tuition at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

Independent Student—a person who is defined as an Independent Student by the Higher Education Act of 1965, as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the Beneficiary of an Education Savings Account.

Louisiana Education Tuition and Savings Fund (the Fund)—a special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, consisting of deposits made by Account Owners pursuant to the START Saving Application and Owners Agreement, interest earned on said deposits as a result of investment by the Louisiana State Treasurer, accumulated penalties and forfeitures, and the Savings Enhancement Fund, which is a special sub-account designated to receive Earnings Enhancements appropriated by the State, and interest earned thereon.

Louisiana Office of Student Financial Assistance (LOSFA)—the organization responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana Resident

1. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

- a. if registered to vote, is registered to vote in Louisiana;
- b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
- c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
- d. if earning an income, has complied with state income tax laws and regulations.

2. a member of the Armed Forces stationed outside of Louisiana, but who claims Louisiana on his official DD 2058 as his "legal residence" for tax purposes, and is in compliance with Paragraph 1.d above, shall be considered eligible for program participation;

3. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

4. persons less than 21 years of age are considered Louisiana Residents if they reside with and are dependent upon one or more persons who meet the above requirements.

Louisiana Tuition Trust Authority (LATTA) the statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account Balance the amount, determined annually and expressed as a current dollar value, which is equal to five times the Qualified Higher Education Expenses at the highest cost institution in the state. Once the cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon of an Education Savings Account equals or exceeds the Maximum Allowable Account Balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the Maximum Allowable Account Balance, principal deposits may resume until the cumulative credits equal the most recently determined Maximum Allowable Account Balance.

Member of the Family with respect to any designated Beneficiary means:

1. the spouse of such Beneficiary; or
2. an individual who bears one of the following relationships to such Beneficiary:
 - a. a son or daughter of the Beneficiary, or a descendant of either;
 - b. a stepson or stepdaughter of the Beneficiary;
 - c. a brother, sister, stepbrother, or stepsister of the Beneficiary;
 - d. the father or mother of the Beneficiary, or an ancestor of either;
 - e. a stepfather or stepmother of the Beneficiary;
 - f. a son or daughter of a brother or sister of the Beneficiary;
 - g. a brother or sister of the father or mother of the Beneficiary; or
 - h. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the Beneficiary; or
 - i. a first cousin of the Beneficiary; or
 - j. the spouse of any individual described in subparagraph 2 of this definition.

Other Persons with respect to any designated Beneficiary, is any person, other than the Beneficiary, whether natural or juridical, who is not a Member of the Family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, and corporations.

Owners's Agreement the agreement for program participation executed by the Account Owner which incorporates, by reference, R.S. Chapter 22-A, Title 17, and the rules promulgated by the LATTA to implement this statute and any other state or federal law applicable to the agreement.

Qualified Higher Education Expenses Tuition, fees, books, supplies, equipment, and Room and Board required for the enrollment or attendance of a designated Beneficiary at an eligible institution of postsecondary education

Rate of Expenditure the rate [see §309.B] per Educational Term, at which the fund components may be disbursed from an Education Savings Account to pay the Beneficiary's Qualified Higher Education Expenses at an Eligible Educational Institution.

Redemption Value the cash value of an Education Savings Account attributable to the sum of the principal invested, and the interest earned on principal, less any distributions, penalties and those refunds authorized by §311.F.3. Earnings Enhancements and the earnings thereon are not included. Redemption Value is not applicable to an Education Savings Account that is invested in Variable Earnings.

Refund Recipient either the Account Owner or the Beneficiary as designated in the Owner's Agreement, or by operation of law, to receive refunds from the account.

Room and Board qualified Room and Board costs include the reasonable cost for the academic period incurred by the designated Beneficiary for Room and Board while attending an Eligible Educational Institution on at least a half time basis, not to exceed the maximum amount included for Room and Board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087II) for the Eligible Educational Institution for such period. Room and Board are only Qualified Higher Education Expenses for students who are enrolled at least half time.

Scheduled Date of First-Enrollment for a dependent Beneficiary, is the month and year in which the Beneficiary turns 18 years of age. For an Independent Student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for Earnings Enhancements. See the term *Fully Funded Account*.

Tuition the mandatory educational charges required as a condition of enrollment and limited to undergraduate enrollment. It does not include nonresidence fees, laboratory fees, Room and Board nor other similar fees and charges.

Variable Earnings the placement of all deposits in an Education Savings Account, to include the interest earned thereon, in investments that normally provide variable rates of return that change with market conditions.

Voucher a negotiable draft payable from the Louisiana Education Tuition and Savings Fund. All Vouchers issued by the LATTA shall bear an expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An Education Savings Account is established on behalf of a designated Beneficiary to provide the funding necessary for the Beneficiary to acquire an undergraduate certificate, associate degree, or undergraduate degree.

Education Savings Accounts may offer investment options that provide either Fixed Earnings or Variable Earnings.

B. Program Enrollment Period. An account may be opened and an eligible Beneficiary may be enrolled at any time during the calendar year.

C. Completing the Owners's Agreement

1. This agreement must be completed, in full, by the Account Owner.

2. The Account Owner shall designate a Beneficiary.

3. The Account Owner may designate a limited power of attorney to another person who would be authorized to act on the Account Owner's behalf, in the event the Account Owner became incapacitated.

4. Transfer of Account Ownership is not permitted, except in the case of the death of an Account Owner.

a. The Account Owner may designate a person who will become the substitute Account Owner in the event of the original Account Owners' death.

b. Eligibility for Earnings Enhancements will be based on the substitute Account Owners' classification at the time of the original Account Owners' death.

c. In the event of the death of an Account Owner who has not named a substitute Account Owner, the account shall be terminated and the account shall be refunded to the Beneficiary, if designated to receive the refund by the Account Owner, or to the Account Owners' estate.

5. Only the Account Owner or the Beneficiary may be designated to receive refunds from the account. In the event of the death of the Account Owner when the Account Owner is designated to receive the refund and there is no substitute Account Owner named, the refund shall be made to the Account Owners' estate.

D. Agreement to Terms. Upon executing a Owners's Agreement, the Account Owner certifies that he understands and agrees to the following statements.:

1. Admission to a Postsecondary Educational Institution that participation in the START Program does not guarantee that a Beneficiary will be admitted to any institution of postsecondary education;

2. Payment of Full Tuition that participation in the START Program does not guarantee that the full cost of the Beneficiary's Tuition will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

3. Maintenance of Continuous Enrollment that once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the Beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion;

4. Guarantee of Redemption Value that the LATTA guarantees payment of the Redemption Value of an Education Savings Account that is invested in Fixed Earnings, subject to the limitations imposed by R.S. 17:3098; however, the LATTA does not guarantee the value of an Education Savings Account that is invested in Variable Earnings.

5. Conditions for Payment of Education Expenses that payments for Qualified Higher Education Expenses under the START Saving Program are conditional upon the Beneficiary's acceptance and enrollment at an Eligible Educational Institution;

6. Fees.

a. That except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a Fixed Earnings account at standard fees established by the LATTA;

b. That fees imposed by investment institutions for opening or maintenance of Variable Earnings accounts may be charged to the Account Owner.

c. That financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START Program account.

E. Acceptance of the Owners's Agreement

1. A properly completed and submitted Owners's Agreement will be accepted upon receipt.

2. Upon acceptance of the Owners's Agreement, the LATTA will establish the account of the named Beneficiary.

F. Citizenship Requirements. Both the Account Owner and Beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and provide copies of INS documentation with the submission of the Owners's Agreement.

G. Residency Requirements

1. On the date an account is opened, either the Account Owner or his designated Beneficiary must be a Louisiana Resident, as defined in §107 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

H. Providing Personal Information

1. The Account Owner is required to disclose personal information in the Owners's Agreement, including:

a. his Social Security number;

b. the designated Beneficiary's Social Security number;

c. the Beneficiary's date of birth;

d. the familial relationship between the Account Owner and the designated Beneficiary, if any;

e. the Account Owner's prior year's federal adjusted gross income amount as reported to the Internal Revenue Service.

2. By signing the Owners' Agreement, the Account Owner provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the Owners's Agreement, the Account Owner certifies that both Account Owner and Beneficiary are United States Citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the Application and Owners's Agreement, and that either Account Owner or Beneficiary is and has been a Louisiana Resident for 12 consecutive months.

4. Social Security numbers will be used for purposes of federal income tax reporting and to access individual account information for administrative purposes [see §315].

I. First Disbursement Restriction. A minimum of one year must lapse between the date the Account Owner makes the first deposit opening an account and the first disbursement from the account to pay a Beneficiary's Qualified Higher Education Expenses, which will normally be the Beneficiary's projected scheduled date of first-enrollment in an Eligible Educational Institution.

J. Number of Accounts for a Beneficiary. There is no limit on the number of Education Savings Accounts that may be opened for one Beneficiary by different Account Owners; however, the cumulative credits in all accounts for the same Beneficiary may not exceed the Maximum Allowable Account Balance for that Beneficiary and the cumulative credits in all Education Savings Accounts for the same Beneficiary will be used to determine when these accounts are Fully Funded and are no longer eligible for Earnings Enhancements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:

§303. Account Owner Classifications

A. An Account Owner shall be classified by the Authority under one of the following classifications:

1. a person or persons determined by the authority to be the parent, grandparent, or court ordered custodian of the person being designated as Beneficiary of the account or who claim the person being designated as Beneficiary as a dependent on their federal income tax return, or an independent student and, at the time of the initiation of the agreement, the person or Beneficiary is a resident of the state; or

2. a person or persons determined by the authority to be a Member of the Family of the Beneficiary and, at the time of the initiation of the agreement, the Beneficiary is a resident of the state; or

3. any Other Person and, at the time of the initiation of the agreement, the Beneficiary is a resident of the state; or

4. any Other Person who, at the time of the initiation of the agreement, is a resident of the state and the Beneficiary is not a resident of the state.

B. In order to qualify as an Account Owner in any classification, a natural person, to include an Independent Student, must be of the age of majority under Louisiana law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27:

§305. Deposits to Education Savings Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to participants applying for a START Program account directly to the LATTA.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See Fees in §301.D.6.)

3. An initial deposit is not required to open an Education Savings Account; however, a deposit of at least \$10 in whole dollar amounts must be made within 60 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the Maximum Allowable Account Balance [see §107].

B. Deposit Options

1. The Account Owner shall select one of the following deposit options during the completion of the Owners's Agreement; however, the Account Owner may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

a. occasional lump sum payment(s) made directly to the LATTA or to a LATTA approved investment institution;

b. monthly payments made directly to the LATTA or to a LATTA-approved financial or investment institution;

c. automatic account debit, direct monthly transfer from the Account Owner's checking or savings account to the LATTA or a LATTA approved investment institution;

d. payroll deduction, if available through the Account Owner's employer.

2. Account Owners are encouraged to maintain a schedule of regular monthly deposits.

3. After acceptance of the Owners's Agreement and annually thereafter, the LATTA will project the amount of the monthly deposit that will assure the Account Owner of sufficient savings to meet the Qualified Higher Education Expenses of the Beneficiary at the scheduled date of enrollment at the selected institution, or the highest cost public institution if one was not preselected.

4. Through completion of Schedule D of the Louisiana State Income Tax Return, Account Owners may designate all or any portion of a state income tax refund due them as a deposit to their Education Savings Account. If the Account Owner has established more than one Education Savings Account, the amount of the refund identified on Schedule D of the Louisiana State Income Tax Return shall be divided by the number of accounts owned and an equal share shall be deposited into each such account.

C. Limitations on Deposits

1. All deposits must be rendered in whole dollar amounts of at least \$10 and must be made in cash (check, money order, credit or debit card), defined as any of the deposit options listed in §305.B.1.

2. Once the account becomes Fully Funded [see §107], it will no longer be considered for Earnings Enhancements, regardless of the total amount of annual deposits that may be subsequently made to the account.

3. Once the cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon has reached or exceeded the Maximum Allowable Account Balance [see §107], principal deposits will no longer be accepted to the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998). Amended LR 26:2263 (October 2000), LR 27:

§307. Allocation of Earnings Enhancements

A. Earnings Enhancements are state-appropriated funds allocated to an Education Savings Account, on behalf of the Beneficiary named in the account.

1. The Earnings Enhancements are calculated based upon the Account Owner's annual federal adjusted gross income for the year immediately preceding the year for which the Beneficiary of the account is being considered for

an Earnings Enhancement and the Account Owners total annual deposits of principal.

2. Although allocated to individual accounts, Earnings Enhancements are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay Qualified Higher Education Expenses at an Eligible Education Institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income

1. The Account Owner's annual federal adjusted gross income for the year immediately preceding the year for which the Beneficiary of the account is being considered for an Earnings Enhancement is used in computing the annual Earnings Enhancement allocation.

2. To be eligible in any given year for a Earnings Enhancement in accordance with §307.D., the Account Owner of an Education Savings Account must:

a. authorize the LATTA to access the Account Owner's state tax return filed with the Louisiana Department of Revenue and the access results in a valid adjusted gross income for the Account Owner being reported to LATTA by the Louisiana Department of Revenue; or

b. provide the LATTA a copy of his federal or state income tax return filed for the year immediately preceding the year in which the Beneficiary of the account is being considered for an Earnings Enhancement.

3. In completing the Owners Agreement, the Account Owner of an Education Savings Account authorizes the LATTA to access his records with the Louisiana Department of Revenue, for the purposes of verifying the Account Owner's federal adjusted gross income. In the event the Account Owner did not file his tax information with the Louisiana Department of Revenue, he must provide the LATTA with:

a. a copy of the form filed with the Internal Revenue Service; or

b. a notarized statement as to why no income tax filing was required of the Account Owner.

4. Earnings Enhancements at the rate prescribed in §307.D. cannot be allocated to an Education Savings Account unless the LATTA has received verification of an Account Owners federal adjusted gross income by the deadline contained in §307.B.5. Interest on Earnings Enhancements will not accrue to the benefit of an Education Savings Account until the LATTA has allocated the Earnings Enhancement to the account.

5. If an Account Owner is classified in §305.A.1 or 2 and fails to provide the tax documents required by §307.B.2. by December 31 of the year for which the Beneficiary of the account is being considered for an Earnings Enhancement, as an exception to §307.D., the account shall be allocated an Earnings Enhancement for the year being considered at the Earnings Enhancement rate shown in §307.D. for Account Owners who are Members of the Family of the Beneficiary who report an adjusted gross income of \$100,000 and above.

6. Example: An Account Owner has made deposits in a START account for a Beneficiary during calendar year 2002 and desires to receive the highest Earnings Enhancement rate authorized for those deposits. If the Account Owner did not file a Louisiana Income Tax Return for the tax year 2001 or is notified by LATTA that the Louisiana Department of Revenue could not validate his

federal adjusted gross income, he must file the tax documents for tax year 2001 required by §307.B.2.b. with LATTA by December 31, 2002, or his Earnings Enhancement rate will be defaulted to the rate for Account Owners who are Members of the Family of the Beneficiary who report an adjusted gross income of \$100,000 and above.

C. Availability of Earnings Enhancements

1. The availability of Earnings Enhancements to be allocated to Education Savings Accounts is subject to an appropriation by the Louisiana Legislature.

2. In the event that sufficient Earnings Enhancements are not appropriated during any given year, the LATTA shall reduce Earnings Enhancement rates, pro rata, as required to limit Earnings Enhancements to the amount appropriated.

D. Earnings Enhancement Rates. The Earnings Enhancement rates applicable to an Education Savings Account established by a person or persons identified in §303.A.1 and 2 are determined by the federal adjusted gross income of the Account Owner, according to the following schedule:

Reported Federal Adjusted Gross Income	Earnings Enhancement Rate*
0 to \$29,999	14 percent
\$30,000 to \$44,999	12 percent
\$45,000 to \$59,999	9 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	2 percent

*Rates may be reduced pro rata, to limit Earnings Enhancements to amounts appropriated by the Legislature.

E. The Earnings Enhancement rates applicable to an Education Savings Account established by a person or persons identified in §303.A.3 shall be fixed at the Earnings Enhancement rate for Account Owners who are Members of the Family of the Beneficiary who report an adjusted gross income of \$100,000 and above.

F. An Account established by an authorized Account Owner identified in §303.A.4 shall not be eligible for an Earnings Enhancement.

G Restrictions on Allocation of Earnings Enhancements to Education Savings Accounts. The allocation of Earnings Enhancements is limited to Education Savings Accounts which:

1. are not Fully Funded Accounts (See §107); and
2. have an Account Owner who falls under one of the classifications described in §303.A.1, 2, or 3 in the year for which an Earnings Enhancement is allocated.

H. Frequency of Allocation of Earnings Enhancements to Education Savings Accounts. Earnings Enhancements will be allocated annually, posted to the accounts as of January 1 of the following year and reported to Account Owners before March 31 following the January allocation.

I. Rate of Interest Earned on Earnings Enhancements. The rate of interest earned on Earnings Enhancements shall be the rate of return earned on the Savings Enhancement Fund as reported by the state treasurer.

J. Restriction on Use of Earnings Enhancements

1. Earnings Enhancements, and any interest which may accrue thereon, may only be expended in payment of the Beneficiary's Qualified Higher Education Expenses, or a portion thereof, at an Eligible Educational Institution.

2. Earnings Enhancements, although allocated to a Beneficiary's account and reported on the Account Owner's annual statement, are assets of the state of Louisiana until disbursed to pay a Beneficiary's Qualified Higher Education Expenses at an Eligible Educational Institution.

3. Earnings Enhancements are not the property of the Account Owner nor Beneficiary, until disbursed as payment of Qualified Education Expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001) LR 27:

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Vouchers

1. Prior to each Educational Term, the LATTA will forward to the Beneficiary a Voucher with a statement specifying the value of the Beneficiary's account, classified as Deposits or Earnings Enhancements that may be expended for Qualified Higher Education Expenses, and instructions for completion and submission of the Voucher.

2. The Beneficiary shall complete the Voucher by inserting the amount of the funds to be withdrawn and then signing it. The amount of funds to be withdrawn shall not exceed the Beneficiary's actual Qualified Higher Education Expenses for the Educational Term attended.

3. Upon completion, the Beneficiary shall submit the Voucher to the institution he shall attend.

B. Rate of Expenditure

1. As authorized by the Beneficiary on a payment Voucher, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and Earnings Enhancements (including earnings on Earnings Enhancements) in the same ratio as these funds bear to the total value of all accounts for the same Beneficiary as of the date of the disbursement.

2. For an Educational Term, the Beneficiary may not withdraw an amount in excess of the Qualified Higher Education Expenses for that term or the value of the account or that amount calculated under 1, above, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the Beneficiary's enrollment and the institution's receipt of a Voucher, the institution may bill the START program for the Qualified Higher Education Expenses of the Beneficiary, up to the amount specified on the Voucher or the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, whichever is less.

2. The institution shall bill the START program by endorsing the Voucher and submitting it to LATTA. Vouchers shall be submitted in batches. Submission of a Voucher is certification by an institution that the amount of the Voucher does not exceed the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, and the Beneficiary has enrolled.

3. Upon receipt of the Voucher(s), the LATTA will disburse funds from the appropriate accounts, consolidate and forward payment directly to the institution.

4. The LATTA will make all payments for Qualified Higher Education Expenses directly to the Eligible Educational Institution.

5. No payments by LATTA for Qualified Higher Education Expenses shall be disbursed directly to the Beneficiary.

6. Payments forwarded to an institution by LATTA on behalf of a Beneficiary which exceed institutional charges shall be promptly refunded to the Beneficiary for payment of other Qualified Higher Education Expenses.

D. Failure to Attend and Withdrawal During an Educational Term

1. If the designated Beneficiary of an Education Savings Account enrolls, but fails to attend or withdraws from the institution prior to the end of the Educational Term and disbursements from the Education Savings Account have been used to pay all or part of his Qualified Higher Education Expenses for that Educational Term, an institutional refund to the Education Savings Account may be required.

2. If any refund is due the Beneficiary from the institution, a pro rata share of any refund of Qualified Higher Education Expenses, equal to that portion of the Qualified Higher Education Expenses paid by disbursements from the Education Savings Account, shall be made by the institution to the LATTA.

3. The LATTA will credit any refunded amount to the appropriate Education Savings Account.

E. Receipt of Scholarships

1. If the designated Beneficiary of an Education Savings Account is the recipient of a scholarship, waiver of Tuition, or similar subvention which cannot be converted into money by the Beneficiary, the Beneficiary or Beneficiary may request a refund from the Education Savings Account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

2. Upon the institution's verification that the Beneficiary received a scholarship, waiver or similar subvention, the LATTA will refund, without penalty, the amount to the Account Owner or the Beneficiary, as designated in the Owner's Agreement.

F. Advanced Enrollment. A Beneficiary may enroll in an Eligible Educational Institution prior to his scheduled date of first-enrollment [see §107] and utilize Education Savings Account funds; however, a Beneficiary may not utilize funds from an Education Savings Account prior to one year from the date the Beneficiary made the first deposit opening the account.

G. Part-Time Attendance and Nonconsecutive Enrollment. A Beneficiary may utilize funds in an Education Savings Account for enrollments which are nonconsecutive and for part-time attendance at an Eligible Educational Institution. Room and Board is only a Qualified Higher Education Expense for students who are enrolled at least half time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997). Amended LR 24:1272 (July 1998), LR 26:2265 (October 2000), LR 27:

§311. Termination and Refund of an Education Savings Account

A. Account Contributions. Contributions to an Education Savings Account are voluntary.

B. Account Terminations

1. The Account Owner may terminate an account at any time.
2. The LATTA may terminate an account in accordance with this subsection and §311.E.
3. The LATTA may terminate an account if no deposit of at least \$10 dollars in whole dollar amounts has been made within 60 days from the date on the letter of notification of approval of the account.
4. The LATTA may terminate an account if the Beneficiary dies and a new Beneficiary is not named within 60 days of the death.
5. The LATTA may terminate an account if the Beneficiary becomes Disabled and a new Beneficiary is not named within 60 days of the onset of the Disability.

C. Refunds

1. A partial refund of an account may only be made as described in §311.F.3. and §311.J.1.
2. All other requests for refund will result in the refund of the Redemption Value and termination of the account.

D. Designation of a Refund Recipient

1. In the Owners's Agreement, the Account Owner may designate the Beneficiary to receive refunds from the account.
2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.
3. In the event the Beneficiary receives any refund of principal and earnings from the account, the tax consequence must be determined by the recipient.

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate a Owners's Agreement if it finds that the Account Owner or Beneficiary provided False or Misleading Information [see §107].
2. All interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.
3. An individual who obtains program benefits by providing False or Misleading Information will be prosecuted to the full extent of the law.

F. Voluntary Termination or Partial Refund of an Account without Penalty Prior to January 1, 2002. No penalty will be assessed for accounts which are terminated and fully refunded or partially refunded prior to January 1, 2002 due to the following reasons:

1. the death of the Beneficiary; the refund shall be equal to the Redemption Value of the account and shall be made to the Account Owner;
2. the disability of the Beneficiary; the refund shall be equal to the Redemption Value of the account and shall be made to the Account Owner or the Beneficiary, as designated in the Owners's Agreement;
3. the Beneficiary receives a scholarship, waiver of Tuition, or similar subvention that the LATTA determines cannot be converted into money by the Beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of Tuition, or similar subvention awarded to the Beneficiary.

G. Voluntary Termination of an Account with Penalty Prior to January 1, 2002

1. Refunds for any reason other than those specified in §311.E and F prior to January 1, 2002 will be assessed a penalty of 10 percent of interest earned on principal deposits accumulated in said account at the time of termination which has not been expended for Qualified Higher Education Expenses.

2. Reasons for voluntary account termination with penalty include, but are not limited to the following:

- a. request by an Account Owner, an Account Owners's estate or legal successor, for reasons other than those specified in §311.E and F.
- b. decision not to attend; upon notification in writing that the Beneficiary has reached 18 years of age and has stated he does not intend to attend an institution of higher education;
- c. upon notification in writing that the Beneficiary has completed his educational program and does not plan to pursue further education.

3. Refunds made under the provisions of §311.G shall be equal to the Redemption Value of the Education Savings Account at the time of the refund minus 10 percent of accumulated interest earned on principal deposits which has not been expended for Qualified Higher Education Expenses, and shall be made to the person designated in the Owners's Agreement.

H. Voluntary Termination of an Account After December 31, 2001

1. Refunds shall be equal to the Redemption Value of the Education Savings Account at the time of the refund, and shall be made to the person designated in the Owners's Agreement.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

I. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

J. Refund Payments

1. Payment of refunds for voluntary termination or partial refunds of accounts without penalty pursuant to §311.F and §311.H shall be made within thirty days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned in excess of \$3.00 during the calendar year of termination will be refunded on or about the forty-fifth day after the start of the next calendar year. Interest earned of \$3.00 or less during the calendar year of termination will be forfeited to the Louisiana Education And Tuition Savings Fund.

2. Payment of refunds for voluntary termination of accounts with penalty pursuant to §311.G shall be made by or about the tenth day following the date on which the account was terminated. The refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the

last calendar year less the interest penalty. Interest in excess of \$3.00 earned during the calendar year of termination, less the interest penalty, will be refunded on or about the forty-fifth day after the start of the next calendar year. Interest earned of \$3.00 or less during the calendar year of termination will be forfeited to the Louisiana Education And Tuition Savings Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997). Amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:

§313. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The Beneficiary of an Education Savings Account may be changed to a substitute Beneficiary provided the Account Owner completes a Beneficiary Substitution form and the following requirements are met:

1. the substitute Beneficiary is a Member of the Family as defined under §107;

2. the substitute Beneficiary meets the citizen/resident alien requirements of §301.F, and, if the Account Owner is a nonresident of the state of Louisiana, the substitute Beneficiary meets the applicable residency requirements [see §301.G];

3. if the original Beneficiary is an Independent Student [see §107], meaning he is also the Account Owner of the account, the substitute Beneficiary must be the spouse or child of the Account Owner;

4. If the original Beneficiary is not a Member of the Family of the Account Owner, the account must be refunded to the Account Owner and a new account must be opened.

B. Assignment or Transfer of Account Ownership. The ownership of an Education Savings Account, and all interest, rights and benefits associated with such, are nontransferable.

C. Changes to the Owners's Agreement

1. The Account Owner may request changes to the Owners's Agreement.

2. Changes must be requested in writing and be signed by the Account Owner.

3. Changes which are accepted will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the Account Owner.

5. The Account Owner will be notified by the LATTA in writing of any changes affecting the Owners's Agreement which result from changes in applicable federal and state statutes and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR:26:2266 (October 2000), amended LR 27:

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each Account Owner an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year;

b. total principal and interest accrued to the statement date; and

c. total Earnings Enhancements and interest allocated to the account as of the statement date.

2. Earnings Enhancements shall be allocated annually and reported after March 1, following the Account Owners's required disclosure of their reported federal adjusted gross income for the year immediately preceding the year in which the Beneficiary of the account is being considered for an Earnings Enhancements.

3. The Account Owner must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to Account Owners after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the Fund as reported by the state treasurer and approved by the LATTA.

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGs) Fund earned an interest rate of 6.83 percent.

C. Refunded Amounts

1. Interest earned on an Education Savings Account which is refunded to the Account Owner or Beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

D. Annual Report

1. The Account Owner of an Education Savings Account will be notified annually, in writing, of the following:

a. the Maximum Allowable Account Balance.; and

b. the maximum recommended account balance which is an amount equal to five times the Qualified Higher Education Expenses for the Eligible Educational Institution designated on the Owners's Agreement, projected to the date of the Beneficiary's eighteenth birthday ;or

c. If no Eligible Educational Institution was designated on the Owners's Agreement, an amount equal to five times the Qualified Higher Education Expenses for an undergraduate course of study at the highest cost in-state eligible public educational institution projected to the date of the Beneficiary's eighteenth birthday.

2. If the Account Owner changes the institution designated on the Owners's Agreement, a revised maximum recommended account balance will be calculated and the Account Owner will be notified of any change.

E. Rule Changes. The LATTA reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the

Administrative Procedure Act and distributed to Account Owners for public comment prior to the adoption of final rules.

F. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

G. Individual Accounts. The LATTA will maintain an individual account for each Beneficiary, showing the Redemption Value of the account.

H. Confidentiality of Records. All records of the LATTA identifying Account Owners and designated beneficiaries of Education Savings Accounts, amounts deposited, expended or refunded, are confidential and are not public records.

I. No Investment Direction. No Account Owner or Beneficiary of an Education Savings Account may direct the investment of funds credited to an account, except to make an election between accounts that offer investments in Fixed Earnings or Variable Earnings.

J. No Pledging of Interest as Security. No interest in an Education Savings Account may be pledged as security for a loan.

K. Excess Funds

1. Principal deposits to an Education Savings Account are no longer accepted once the account total reaches the Maximum Allowable Account Balance [see §305.C]; however, the principal and interest earned thereon may continue to earn interest and any Earnings Enhancements allocated to the account may continue to accrue interest.

2. Funds in excess of the Maximum Allowable Account Balance may remain in the account and continue to accrue interest and may be expended to an Eligible Educational Institution in accordance with §309, or upon termination of the account, will be refunded in accordance with §311.

L. Withdrawal of Funds. Funds may not be withdrawn from an Education Savings Account except as set forth in §309 and §311.

M. NSF Procedure

1. A check received for deposit to an Education Savings Account which is returned due to insufficient funds in the Owners's account on which the check is drawn, will be redeposited and processed a second time by the START Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

N. Effect of a Change in Residency

1. On the date an account is opened, either the Account Owner or Beneficiary must be a resident of the state of Louisiana [see §301.G]; however, if the Account Owner or Beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the Owners Agreement.

2. The Account Owner may elect to terminate the account or request a "rollover" of account funds to another Qualified Tuition Program. Only the principal deposited, and interest earned thereon, may be "rolled over."

3. Earnings Enhancements allocated to an Education Savings Account are not transferable nor refundable.

O. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from participating in other federal, state or private student

financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the Beneficiary may experience reduced eligibility for aid from these programs.

P. Change in Projected School of Enrollment

1. The Account Owner may redesignate the Beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's Fully Funded or Maximum Allowable Account Balance, the Account Owner will be notified.

Q. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23: 718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended, LR 27:

Mark S. Riley
Assistant Executive Director

0108#029

DECLARATION OF EMERGENCY

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

Facility Need Review Emergency
Community Home Bed Pool
(LAC 48:I.12501-12505)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule for Facility Need Review as authorized by R.S. 40:2116. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals adopted a rule governing the Facility Need Review process in August 1995 (*Louisiana Register, Volume 21, Number 8*). The August 1995 rule was amended to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register, Volume 25, Number 7*).

The Department is now proposing to amend the August 1995 rule governing the Facility Need Review process in order to implement provisions of the 2001 Appropriations Bill, Act 12 of the 2001 Regular Session. The Act provides that the Department of Health and Hospitals is authorized to transfer 50 beds currently licensed to state developmental centers to non-state operated community homes for the mentally retarded in accordance with a plan to be developed by the Department. The Department intends to use those 50 beds to address emergency situations which cannot be dealt with adequately through the normal request for proposals process because of the significant delay in placement which is inherent in that process. Therefore, the Department is exercising its emergency rule making authority to amend its

rules on Facility Need Review to include a plan whereby 50 beds will be used to create a pool of beds which will be available for transfer to non-state operated community homes. This action is being taken to promote the health and welfare of Louisiana citizens by assuring that adequate community home beds are available for Medicaid recipients in emergency situations. It is estimated that implementation of this proposed emergency rule will be cost neutral.

Emergency Rule

Effective August 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the August 20, 1995 rule on Facility Need Review to include a plan whereby 50 beds will be used to create a pool of beds which will be available for transfer to non-state operated community homes.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

A. ...

B. Definitions ...

*Emergency Community Home Bed Pool*Ca pool consisting of 50 approved beds which have been transferred from state developmental centers and which are made available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

C. - F.6. ...

7. Beds may not be disenrolled, except as provided under the alternate use policy, under the Emergency Community Home Bed Pool exception, and during the 120-day period to have beds re-licensed or re-certified. The approval for beds disenrolled, except as indicated, will automatically expire.

F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 25:1250 (July 1999), LR 27:

§12503. Determination of Bed Need

A.1. - 6.d. ...

7. Emergency Community Home Bed Pool Exception

a. The Emergency Community Home Bed Pool is hereby created, consisting of 50 Medicaid enrolled beds transferred from state developmental centers.

b. The beds in the Emergency Community Home Bed Pool shall be available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

c. Emergency situations which may be addressed through the use of the Emergency Community Home Bed Pool shall include, but not be limited to, situations in which it is difficult or impossible to find a placement for an individual in an ICF/MR because of one of the following:

i. An inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population in general.

ii. An inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population who also have physical or behavioral disabilities or difficulties.

iii. An inadequate number of available ICF/MR beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

d. Any agency or individual who becomes aware of an actual or potential emergency situation should inform the Office for Citizens with Developmental Disabilities (OCDD). The OCDD shall submit to the Facility Need Review Program its recommendations for emergency placement. The recommendations from the OCDD shall include identification of the individual in need of emergency placement, the individual's needs, the service area in which transfer from the Emergency Community Home Bed Pool is requested, and the names of one or more existing community homes that would be appropriate for emergency placement.

e. In order to be eligible for transfer of one or more beds from the Emergency Community Home Bed Pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section:

i. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973, or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

ii. The facility can not have been on a termination track or have had any repeat deficiencies within the last 12 months.

iii. The facility must meet all square footage requirements, Life Safety Code requirements and general construction requirements of 42 CFR Subpart D, Conditions of Participation for ICF/MR, as well as Standards for Payment, LAC 50:II.Chapter 103 and Louisiana Licensing Requirements for Intermediate Care Facilities.

iv. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent clients residing in the facility from being adversely affected by the emergency admission.

f. The Secretary shall authorize the transfer of the bed to be used at the non-state operated community home, and upon the enrollment of the transferred bed at that community home, it shall be permanently transferred to that facility, subject to the following conditions: Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements, although it may be used temporarily to serve other individuals until it is needed for a new emergency placement. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the Department as set forth herein. If the facility does not comply with such a request, the Secretary may, at his discretion, transfer the bed from the facility back to the Emergency Community Home Bed Pool.

g. Beds which have been placed in the Emergency Community Home Bed Pool shall be exempt from the bed

need criteria and the requirements for requests for proposals which are normally applicable to ICF/MRs.

h. For purposes of the Emergency Community Home Bed Pool exception, the definition of Aservice area@ provided in §12503.A.1 is applicable.

8.-11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:808 (August 1995), amended LR 27:

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

David W. Hood
Secretary

0108#082

DECLARATION OF EMERGENCY

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

Hospital ProgramCOutpatient Surgery Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in December of 1985 that established the criteria and reimbursement for certain surgical procedures when performed in an outpatient setting. Reimbursement for these surgical procedures was set at a flat fee per service if the procedure code is included in one of the four Medicaid established payment groups. Reimbursement for those surgical procedures not included in the Medicaid outpatient surgery list was not changed from the established methodology (*Louisiana Register*, Volume 11, Number 12). A rule was subsequently adopted in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges, except for those outpatient surgeries subject to the Medicaid outpatient surgery list (*Louisiana Register*, Volume 22, Number 1).

As a result of a budgetary shortfall, the Bureau assigned the highest flat fee in the four Medicaid established payment groups for outpatient surgery to those surgical procedures that are not included in the Medicaid outpatient surgery list (*Louisiana Register*, Volume 26, Number 12).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau proposes to increase the reimbursement rates paid to hospitals for outpatient surgery services. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for outpatient hospital services by approximately \$13,836,000 for the state fiscal year 2001-2002.

Emergency Rule

Effective for dates of service on or after July 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement paid to hospitals for those outpatient surgical procedures included in the four payment groups on the Medicaid outpatient surgery list to the following rates:

Group 1	\$444.25
Group 2	\$528.92
Group 3	\$569.32
Group 4	\$646.25

Reimbursement paid to hospitals for those surgical procedures not included on the Medicaid outpatient surgery list shall be the highest flat fee assigned to the outpatient surgery payment groups.

Implementation of this proposed rule shall be contingent upon the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143) as set forth in the Appropriations Act of the 2001 Regular Session of the Louisiana Legislature and the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

0108#085

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the

maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in August 2000 to restore the 7 percent reduction previously made to the reimbursement rates for inpatient psychiatric services (*Louisiana Register*, Volume 26, Number 8).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau proposes to increase the reimbursement rate for inpatient psychiatric services provided to recipients up to the age of 21. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for inpatient psychiatric services by approximately \$1,500,000 for the state fiscal year 2001-2002.

Emergency Rule

Effective for dates of service on or after July 3, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the current per diem rate for inpatient psychiatric services by \$50 for services provided to recipients up to the age of 21.

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

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

David W. Hood
Secretary

0108#083

DECLARATION OF EMERGENCY

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 adopts the following emergency rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in April 1990, amending the reimbursement methodology for drugs under the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, Number 4). In compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature, the Bureau amended the April 20, 1990 rule to limit payments for prescription drugs to the lower of: 1) average wholesale price (AWP) minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies; 2) Louisiana's maximum allowable cost (MAC) limitation plus the maximum allowable overhead cost (MAOC); 3) federal upper limits plus the; or 4) providers' usual and customary charges to the general public. In addition, the definition of chain pharmacies was established as five or more Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 6).

As a result of a budgetary shortfall, the Bureau adopted a rule amending the June 20, 2000 rule to limit payments for prescription drugs to the lower of AWP minus 15 percent for independent pharmacies and 16.5 percent for chain pharmacies. In addition, the definition of chain pharmacies was changed from five or more to more than fifteen Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 8). As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau proposes to increase the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from AWP minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies.

This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of pharmacy providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures in the Medicaid Pharmacy Program by approximately \$7,132,996 for state fiscal year 2001-2002.

Emergency Rule

Effective for dates of services on or after August 6, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from average wholesale price (AWP) minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies. This adjustment applies to single source drugs, multiple source drugs that 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.

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

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

David W. Hood
Secretary

0108#084

DECLARATION OF EMERGENCY

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

Private Nursing Facilities
Reimbursement Rate Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953 (B) (1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). The reimbursement methodology for private nursing facilities included provisions for interim adjustments to the reimbursement rates and automatic application of an inflation adjustment to

the rates in those years when the rates are not rebased. The June 1984 rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 6). As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted an emergency rule to restore the 7 percent reduction previously made to the prospective per diem rates for private nursing facilities (*Louisiana Register*, Volume 26, Number 7).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session in order to continue initial year rebasing as provided for by R.S. 46:2691 through an approved state plan amendment to be in effect for state fiscal year 2001-2002 only and for cost increases as verified by the Department of Health and Hospitals, the Bureau proposes to adjust the per diem rates paid to private nursing facilities. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures to the private nursing facilities by approximately \$9,605,876 for state fiscal year 2001-2002.

Emergency Rule

Effective for dates of service on or after July 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adjusts the percentile utilized for all cost components, except profit incentive, from the sixtieth to the sixty-second percentile.

Implementation of this proposed rule shall be contingent on the approval of the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services.

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

0108#086

DECLARATION OF EMERGENCY

**Department of Revenue
Office of the Secretary**

Louisiana Tax Delinquency Amnesty Act of 2001
(LAC 61:I.4912)

The Department of Revenue, Office of the Secretary, is exercising the provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt this emergency rule pertaining to the Louisiana Tax Delinquency Amnesty Act of 2001 (Acts 2001, No. 136), in accordance with the provisions of R.S. 47:1511. The rule is needed to provide guidelines for implementing and administering the Louisiana Tax Delinquency Amnesty Program scheduled to begin on September 1, 2001. The Emergency Rule shall be effective

September 1, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

The Department of Revenue has established a tax amnesty program beginning September 1, 2001 and ending October 30, 2001 for all taxpayers owing any tax imposed by reason of or pursuant to authorization by any law of the State of Louisiana and collected by the department. Amnesty will be granted only to those taxpayers who file an amnesty application and pay the entire amount of tax and fees due within the 60-day amnesty period.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4912. Louisiana Tax Delinquency Amnesty Act of 2001

A. Definitions. For the purposes of this rule, the following terms shall have the meanings ascribed to them in this section:

Amnesty Application—a form created by the department.

Applicant—a person applying for amnesty under the Louisiana Tax Delinquency Amnesty Act of 2001 (Acts 2001, No. 136).

Audit Finalization Application—a form created by the department that allows the taxpayer involved in an unresolved review or examination to exercise his right under R.S. 47:1565.1 to waive restrictions and delays.

Department—the Louisiana Department of Revenue.

Entire Tax Liability—the net tax of all taxable periods included in the review or examination.

Ongoing—within the period starting with the taxpayer furnishing books and records to department personnel and ending with the issuance of a final audit report.

Unresolved—the taxpayer has not signed an Audit Finalization Application and paid the entire tax liability as previously notified by the department in writing.

Taxable period—any period for which a tax return is required by law to be filed with the department.

Taxpayer—any individual or entity subject to any tax imposed by any law of the State of Louisiana, payable to the State of Louisiana, and collected by the department.

B. Time Frame. The amnesty application, applicable returns, and payment of tax and fees must be received by the department during the period of September 1, 2001, through October 30, 2001.

C. Procedure and Eligibility

1. On the amnesty application, the applicant must make a written waiver of all rights, restrictions, and delays for assessing, collecting, or protesting taxes and interest due as set forth in R.S. 47:1562 through 1565 and 1576. The filing of such application will make the tax, interest, penalty, and fees immediately due and payable and subject to the distraint procedure. Upon receipt and approval by the department of the taxpayer's completed amnesty application and payment of the entire amount of tax and fees due, the secretary shall waive interest and penalties for any taxable period ending prior to July 1, 2001, provided the application and full payment are received between September 1, 2001, and October 30, 2001. If a check submitted in conjunction with an amnesty application is returned by the bank on which it is drawn for any reason related to the account on

which the check is written, such shall constitute a failure to have paid the entire amount due. The secretary shall not seek civil or criminal prosecution for the taxable period for which amnesty has been granted.

2. A taxpayer is eligible for amnesty despite the existence of any of the following circumstances:

a. the taxpayer has previously received a notice in writing of the failure to timely file a return or for failure to remit the amount owed;

b. a lien has been issued against the taxpayer's property, both movable and immovable, pursuant to R.S. 47:1577;

c. the department has initiated proceedings under the assessment and distraint procedure pursuant to R.S. 47:1569 through 1573;

d. the department has entered into an installment agreement with the taxpayer;

e. the taxpayer has filed for bankruptcy protection; or

f. the taxpayer has been notified in writing of an existing tax liability as a result of a review or examination of the taxpayer's return or books and records, and the review or examination is not ongoing or unresolved. Notification may include the issuance of a final audit report to the taxpayer.

3. The taxpayer shall pay any fees associated with any collection proceedings.

4. A taxpayer is not eligible for amnesty under any of the following circumstances:

a. the taxpayer is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or the State of Louisiana for nonpayment, delinquency, or fraud in relation to any state tax imposed by a law of the State of Louisiana;

b. the taxpayer is involved in an ongoing review or examination of the taxpayer's return or books and records, provided that the department has notified the taxpayer in writing of the review or examination prior to the application for amnesty;

c. the department notified the taxpayer in writing, prior to the taxpayer submitting an application for amnesty, of the review or examination and completed the audit but the audit is unresolved; or

d. the taxpayer has paid under protest and filed suit pursuant to R.S. 47:1576.

5. In any case where an amnesty application is not approved, the secretary shall consider the waiver of all rights, restrictions, and delays contained in the amnesty application and Audit Finalization Application null and void.

D. Refunds and Overpayments

1. No refunds shall be given for those amounts collected from the taxpayer by the department prior to September 1, 2001, for a taxable period that meets the requirements of §4912.C.2.

2. As a consequence of filing a return for a taxable period allowable, any overpayment determined to be due a taxpayer who has not been previously notified by the department in writing of his previous failure to file a timely return or of an existing tax liability for any taxable period ending prior to July 1, 2001, regardless of the amount of the liability, shall receive a credit or refund in accordance with the applicable provisions of Title 47 of Louisiana Revised Statutes of 1950, without the amount bearing interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and Acts 2001, No. 136.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 27:

Cynthia Bridges
Secretary

0108#078

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Manufactured and Mobile Home Settlement Fund (LAC 61:1.4313)

The Department of Revenue, Policy Services Division, is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to establish procedures for the administration of the Manufactured and Mobile Home Settlement Fund.

This emergency rule is necessary to allow the Department of Revenue to carry out the requirements of Act 1212 of the 2001 Regular Legislative Session, which was enacted to resolve certain suits against the state related to the state sales and use taxes assessed on the purchase of certain manufactured and mobile homes. This Act requires the secretary to promulgate rules and regulations to process claims against the state regarding state sales tax paid on the purchase of manufactured and mobile homes. A delay in adopting rules would adversely impact the financial welfare of potential claimants, since the Act only allows 180 days from the effective date of the legislation to file a claim. This emergency rule is necessary to prevent financial peril to the welfare of potential claimants.

This Declaration of Emergency is effective September 1, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4313. Administration of claims Against the Manufactured and Mobile Home Settlement Fund as Required by Act 1212 of the 2001 Regular Legislative Session

A. Payment of Avants Judgment

1. The Secretary of Revenue will direct the Office of Motor Vehicles to issue a payment for the judgment rendered on February 5, 2001, in the matter of "Shirley M. Avants and Jim W. Miley v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana; and Elmer Litchfield, Sheriff of East Baton Rouge Parish," No. 434,575 (19th Judicial District Court) in the amount of \$5,167,194 plus interest from the date of the judgment. This payment will be made out of the funds currently held in escrow by the Office of Motor Vehicles pursuant to the October 22, 1999 order issued in the Avants lawsuit.

2. Those individuals specifically listed as plaintiffs in the Shirley M. Avants lawsuit referenced in §4313.A.1 are not eligible to file a claim against the state regarding the

Manufactured and Mobile Homes Settlement Fund described in §4313.B.

B. Source of Funds in the Manufactured and Mobile Homes Settlement Fund. After the payment described in §4313.A is made and an order is issued releasing the remainder of the funds from escrow, the State Treasurer will transfer all remaining state tax monies held in escrow to the Manufactured and Mobile Homes Settlement Fund, hereinafter referred to as "the Fund."

C. Administration of the Fund with regard to the Stevens, Rossi, and Miley suits

1. The Department of Revenue will obtain a list of all persons who were plaintiffs on or before July 1, 2001, in the following three suits:

a. Nancy C. Stevens and Edward Istre, Jr. v. Brett Crawford, Secretary, Department of Revenue, State of Louisiana, No. 466,122 (19th Judicial District Court Nov. 2, 1999);

b. Darla M. Rossi, et al v. Cynthia Bridges, Secretary, Department of Revenue, State of Louisiana, No. 478,526 (19th Judicial District Court Nov. 29, 2000); and

c. Jim W. Miley, Individually, and on behalf of all others similarly situated v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana, No. 4695 (La. Board of Tax Appeals Apr. 15, 1997).

2. Any plaintiff referred to in §4313.C.1 must provide his legal representative with documentation that identifies the transaction upon which his claim is based. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale. The plaintiff's representative must present this documentation to the Department of Revenue by December 31, 2001.

3. The information provided by the plaintiffs in §4313.C.2 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions.

4. After the state tax monies held in escrow are transferred to the Fund, the Secretary of the Department of Revenue will authorize payment from the Fund for the state sales or use tax paid to those plaintiffs described in §4313.C.1.a-c, but only in instances where the amount of state sales or use tax paid has been verified.

5. If it cannot be determined that a plaintiff described in §4313.C.1.a-c has paid state sales or use tax on the purchase of a manufactured or mobile home, or if the amount cannot be verified, the amount claimed by that plaintiff will be denied.

6. Plaintiffs in the suits listed in §4313.C.1.a - c are not eligible to file a claim against the state regarding the Manufactured and Mobile Home Settlement Fund.

D. Administration of the Manufactured and Mobile Home Fund with Respect to all others

1. The Secretary of the Department of Revenue will obtain from the Department of Public Safety, Office of Motor Vehicles, a list of all persons who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001.

2. The Department of Revenue will mail a notice to each person described in §4313.D.1. The notice will inform persons who are not a party to the lawsuits referenced in §4313.A.1 or §4313.C.1.a - c of their right to file a claim against the state for state sales or use tax paid on manufactured and mobile home purchases and will include a Manufactured and Mobile Homes Settlement Claim Form that must be filed with the claim against the state. The Manufactured and Mobile Homes Settlement Claim Forms will also be available at the Louisiana Board of Tax Appeals, at any office of the Department of Revenue, and on the Department of Revenue's website at www.rev.state.la.us.

3. The Department of Revenue will collect the Manufactured and Mobile Homes Settlement Claim Forms on behalf of the Board of Tax Appeals. Taxpayers who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001, must return the completed claim form to the Department of Revenue on or before December 31, 2001. The forms may be delivered to any Department of Revenue office or mailed to the Louisiana Department of Revenue, Manufactured and Mobile Homes Settlement Claims, P.O. Box 15409, Baton Rouge, Louisiana 70895-5409. Forms that are postmarked on or before December 31, 2001, will be deemed received by December 31, 2001.

4. Claimants must include documentation that identifies the transaction upon which their claim is based with the Manufactured and Mobile Homes Settlement Claim Form. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale.

5. The information provided by the claimants in §4313.D.4 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions

6. If a claim is filed with incomplete documentation to identify the transaction, the secretary will notify the claimant that the claim is unacceptable. The secretary may allow additional time for the claimant to provide adequate documentation. However, all documentation must be provided no later than February 28, 2002, or the claim will be denied.

7. After the December 31, 2001 deadline to file a Manufactured and Mobile Homes Settlement Claim Form has passed, the Department of Revenue will review the forms in conjunction with the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid by each claimant. Thereafter, the Department will forward the claim forms along with its findings to the Board of Tax Appeals for a ruling.

8. After the Board of Tax Appeals rules on all claims, the Secretary of the Department of Revenue will authorize payment from the Fund of all claims approved by the Board of Tax Appeals in accordance with Paragraphs B and C of Section 4 of Act 1212 of the 2001 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in Accordance with Acts 2001, No. 1212 and R.S. 47:301 (West 2001).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:

Raymond E. Tangney
Senior Policy Consultant

0108#077

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamp Program Semi-Annual Households (LAC 67:III.2013)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt changes to LAC 67:III, Subpart 3, effective August 7, 2001. This rule shall remain in effect for a period of 120 days.

Semi-Annual Reporting in the Food Stamp Program began in August of this year. In the early planning stages, the agency recognized potential conflicts and problems between the reporting requirements of semi-annual reporting households and households not subject to reporting. Therefore, on April 20, 2001, the agency requested, and has now been granted a waiver by the U.S. Department of Agriculture, Food and Nutrition Service, which will allow the agency to process all interim changes reported by a semi-annual reporting household, including those that result in a decrease in food stamp benefits. The approved waiver will eliminate inequities that exist in current policy, that is, the benefits of semi-annual reporting households are not reduced as a result of reported changes while the benefits of other households would be. Additionally, administration of current policy is complicated and highly prone to error.

An emergency rule is necessary at this time in order to effect the waiver and remedy the inequities that exist in current policy in order to prevent an increase in Louisiana's food stamp error rate which would be expected to result in federal sanctions and penalties.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter S. Semi-Annual Reporting

§2013. Semi-Annual Reporting

A. - G ...

H. Effective August 7, 2001, other changes will be processed in accordance with §1999, Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1633 (August 2000), LR 27:867 (June 2001), LR 27:

J. Renea Austin-Duffin
Secretary

0108#037

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Temporary Assistance for Needy Families
(TANF) Initiatives Starting Points Program
(LAC 67:III.5501)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III and establish a new Subpart specific to the adoption of agency-funded programs known collectively as "the TANF Initiatives." This involves a number of measures included in Act 12 of the 2001 Regular Session of the Louisiana Legislature whereby the agency will enter into agreements with other agencies and entities to fund a wide-range of programs to further the goals of the federal Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana.

This emergency rule is effective August 1, 2001, and will remain in effect for a period of 120 days.

Whereas it has been shown that providing quality, early childhood education to at-risk children results in more positive outcomes relative to developing responsible behavior and an interest in learning, for the previous eight years the agency has funded the Starting Points Early Childhood Development Program from the Child Care and Development Fund. This Starting Points school-year program is administered by the Department of Education. With the impending implementation of other initiatives, the agency has chosen to now include Starting Points as a TANF Initiative funded with TANF rather than child care monies.

Therefore, in order to provide for the continuation of the program for the 2001-02 school year and in keeping with the emergency nature of TANF Initiatives as detailed in ACT 12, an emergency rule is necessary to fund and continue services for the Starting Points Program. Additionally, the loss of this program could endanger the welfare of those at-risk families and children who are eligible for its services.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 14. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5501. Starting Points Early Childhood Development Program

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to provide quality, early childhood education to certain four-year-old children.

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to four-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and family stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing

responsible behaviors and an interest in learning that will eventually lead to graduation.

C. Services are limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered non-assistance by the agency.
AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474.

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

J. Renea Austin-Duffin
Secretary

0108#007

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Wrap-Around Child Care Eligibility and Payments
(LAC 67:I.5203, 5205, 5209, and 5211)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt the following changes in the Wrap-Around Child Care Program effective August 29, 2001. This declaration is necessary to extend the original Emergency Rule of May 1, 2001, since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (The final rule will be published in September.)

In an effort to increase the availability of child care services to more low-income families, the agency is making the eligibility requirements less restrictive for full-day/full-year child care services. In particular those school-aged children who are eligible for the Free Lunch Program will now be eligible for Wrap-Around services since the need for child care for working parents, and especially the single parent, significantly increases at the end of the school year.

There exists the possibility that the working parent(s) would have to give up employment or job training situations because of the lack of affordable day care. Besides the social and intellectual benefits of quality child care, it may also prevent children from being involved in negative or illegal activities. There also exists the possibility of danger to children if they are left alone when a parent(s) cannot afford summer child care. For these several reasons, an emergency rule is needed to effect these changes in an effort to bring as many children as possible into the agency's child care programs.

The agency will give first availability for Wrap-Around services to those eligible children meeting the new requirements who are currently on the waiting list for child care assistance through the Child Care and Development Block Grant. Also, to remove the burden of receiving applications and verification from Head Start Grantees or other qualified providers, the agency assumes full responsibility for all Wrap-Around Child Care applications.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support
Subpart 12. Child Care Assistance

Chapter 52. Wrap-Around Child Care Program

§5203. Conditions of Eligibility

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

1. ...
2. effective May 1, 2001, a child may not receive child care services simultaneously from the Wrap-Around Child Care Program, the Family Independence Work Program (FW), or the Child Care Assistance Program (CCAP);

3. effective May 1, 2001, a household in which any member receives Food Stamps, Medicaid, LaChip, SSI, Free or Reduced School Lunch, or Kinship Care Subsidy will be categorically income-eligible and may receive Wrap-Around Child Care if otherwise eligible;

4. effective May 1, 2001, FITAP children who live with a qualified relative who is not a required member of the FITAP assistance unit may receive Wrap-Around Child Care if otherwise eligible;

5. the head of household, that person's spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent who is not legally emancipated and whose child(ren) are in need of Wrap-Around Child Care services, must be:

a. effective May 1, 2001, employed a minimum average of 20 hours per week ; or

b. effective May 1, 2001, engaged in a combination of employment and job training or an educational program, for a combined average of at least 20 hours per week;

6. effective May 1, 2001, the number of hours that child care is provided must reasonably correspond to the number of activity hours of the parents and/or adult household members;

7. effective May 1, 2001, at the time of application 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 (30 or more hours per week) or part-time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year, who is:

a. under age 13; or
b. age 13 through age 17, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by receipt of SSI or a signed statement of disability from a physician or licensed psychologist;

8. 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 services for that child;

9. 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 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.

B. - D. ...

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

1. ...
2. effective May 1, 2001, proof of age;
3. - 5. ...

F. - G ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:

§5205. Income Limits

A. Effective May 1, 2001, unless determined categorically income eligible, a household must have total countable income no greater than 130 percent of the Federal poverty level. These amounts are updated annually.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

§5209. Head Start Grantees and Other Qualified Providers

A. Effective May 1, 2001, the agency will provide services to eligible individuals through contracts with some Head Start Program grantees and other qualified providers who meet the standards and requirements set forth in paragraphs C through E of this section, for a designated number of slots. Available slots will be filled on a first-come, first-served basis.

B. Effective May 1, 2001, the contracted Head Start grantee or other qualified provider will establish a child care program that consists of full-day/full-year child care, that is, full-time (30 or more hours per week) or part-time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year.

C. - E. ...

F. Effective May 1, 2001, the Head Start grantee or other qualified provider 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., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

§5211. Payments Effective May 1, 2001

A. The Head Start grantee or other qualified provider will be paid a weekly rate of \$85 (\$17 per day) per child for full-day, full-time child care.

B. The Head Start grantee or other qualified provider will be paid \$2.12 per hour per child for part-time care up to a maximum of eight hours per day per child.

C. The Head Start grantee or other qualified provider will be paid \$2.12 per hour for up to a maximum of eight hours per day per child (\$17 per day) for allowable, holiday care provided in conjunction with part-time care during the school year.

D. Payment will not be made for a child who is absent from day care more than ten days in a calendar month or for an extended closure by a provider of more than five consecutive days in a calendar month.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, IR 27:431 (March 2001), amended LR 27:

J. Renea Austin-Duffin
Secretary

0108#036

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2001-2002 Early Migratory Bird Seasons

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

The hunting seasons for early migratory birds during the 2001-2002 hunting season shall be as follows:

Migratory Birds other than Waterfowl

2001-2002 Hunting Seasons

Mourning Dove: Split Season, Statewide, 60 days

September 1 - September 9

October 13 - November 18

December 22 - January 4

Daily bag Limit 15; Possession Limit 30

Teal: September 15 - September 30

Daily bag limit 4, Possession limit 8, Blue-winged, Green-winged and Cinnamon teal only. Federal and State waterfowl stamps required.

Rails: Split Season

September 15 - September 30

Remainder of season to be set in August with duck regulations

King and Clapper: Daily bag limit 15 in the aggregate, Possession 30.

Sora and Virginia: Daily bag and possession 25 in the aggregate.

Gallinules: Split Season

September 15 - September 30

Remainder of season to be set in August with duck regulations

Daily bag limit 15, Possession limit 30

Woodcock: December 15 - January 28

Daily bag limit 3, Possession 6

Shooting Hours:

Teal, Rail, Woodcock and Gallinule: One-half hour before sunrise to sunset.

Mourning Dove: One-half hour before sunrise to sunset except on September 1-2, October 13-14, and December 22-23 when shooting hours will be 12:00 noon to sunset.

Snipe: Deferring to August with the duck regulations.

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

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 2001 and extend through sunset on February 28, 2002.

James H. Jenkins, Jr.
Secretary

0108#055

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2001-2002 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B) and 967 (D), and under the authority of R.S. 56:433 and R.S. 56:435.1 notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declares:

1. The oyster season in the following areas will open one-half hour before sunrise on September 5, 2001 and will close one-half hour after sunset on April 15, 2002: the Louisiana Public Oyster Seed Grounds not currently under lease and Oyster Seed Reservation located in the areas which are bordered on the north by the Mississippi Gulf Outlet and on the south by the Mississippi River and North Pass, the sacking only area of the public grounds which is generally Lake Fortuna and Lake Machias to a line from Mozambique Pt. to Pt. Gardner to Grace Pt. at the Mississippi River Gulf Outlet, the Hackberry Bay Oyster Seed Reservation, and the area which is bordered on the east by the Atchafalaya River and on the west by the Freshwater Bayou.

2. The oyster season in the following areas will open one-half hour before sunrise on October 1, 2001 and will close one-half hour after sunset on April 15, 2002: the Louisiana Public Oyster Seed Grounds not currently under lease and Oyster Seed Reservations located in the area bordered on the east by the Louisiana/ Mississippi state line and on the south by the Mississippi River Gulf Outlet, and Sister Lake Oyster Seed Reservation.

3. The following areas will remain closed to oyster harvest for the 2001/2002 Oyster season: Bay Junop Oyster Seed Reservation, portions of Lake Mechant, Lake Tambour, Lake Chien, Lake Felicity, Deep Lake and Barataria Bay Public Oyster Seed Grounds (as identified in LAC 76:VII.517).

4. The season for Calcasieu Lake tonging area will open one-half hour before sunrise on October 15, 2001 and Sabine Lake tonging area will open one-half hour before sunrise on November 15, 2001 and they will remain open until one-half hour after sunset on April 30, 2002. However these conservation actions will not supercede public health closures.

5. The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary, to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads.

6. The Secretary will also have the authority to take emergency action to reopen areas previously closed if the threat to the resource has ended.

7. The notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

Dr. H. Jerry Stone
Chairman

0108#052

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2001 Fall 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 inside waters, the Wildlife and Fisheries Commission does hereby set the 2001 Fall Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi-Louisiana State line westward to the eastern shore of South Pass of the Mississippi River, and

Zone 2, that portion of the 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, 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 Louisiana-Texas state line, all to open at official sunrise August 15, 2001.

The Commission also hereby sets the closing date for the 2001 Fall Inshore Shrimp Season in Zone 2 and Zone 3 at official sunset December 18, 2001, and Zone 1 at official sunset December 31, 2001 except in the open waters of Breton and Chandeleur Sounds as described in LAC 76:VII.307D, which shall remain open until 6:00 a.m.,

March 31, 2002. The Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to change the opening or closing dates if biological and technical data indicate the need to do so or if enforcement problems develop.

Dr. H. Jerry Stone
Chairman

0108#053

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2001 Spring Inshore Shrimp Season Closure for Portion of Zone 1

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, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2001 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2001 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2001 spring inshore shrimp season in that part of Zone 1 which is south and west of the Mississippi River Gulf Outlet (MRGO), and south of the Gulf Intracoastal Waterway from its juncture with the MRGO to its juncture with the Industrial Canal, will close on Monday, July 16, 2001 at 6 a.m. The remainder of Zone 1, including the waters of the MRGO, Breton and Chandeleur Sounds as described in the Menhaden Rule (LAC 76:VII.307D), Lakes Pontchartrain and Borgne, and all waters east and north of the MRGO will remain open to shrimping until further notice.

Zone 1 is the portion of Louisiana's inshore territorial waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River.

The number of small white shrimp in these areas has increased substantially in the last week. The region is being closed to protect these immigrating shrimp.

State territorial waters south of the Inside/Outside shrimp line, as described in Louisiana R.S. 56:495, will remain open to shrimping.

James H. Jenkins, Jr.
Secretary

0108#010

DECLARATION OF EMERGENCY

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

2001 Spring Inshore Shrimp
Season Zone 1 Closure

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, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2001 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2001 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2001 spring inshore shrimp season in that part of Zone 1 which is north and east of the Mississippi River Gulf Outlet (MRGO), and north of the Gulf Intracoastal Waterway from its juncture with the MRGO to its juncture with the Industrial Canal, including Lakes Pontchartrain and Borgne will close on Tuesday, July 24, 2001 at 6 a.m. The open waters of Breton and Chandeleur Sounds as described in the Menhaden Rule (LAC 76:VII.307D) will remain open until further notice.

Zone 1 is the portion of Louisiana's inshore territorial waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River.

With this closure, all inshore waters from the Louisiana-Mississippi state line west to the Louisiana-Texas state line except Breton and Chandeleur Sounds are closed to the harvest of shrimp.

The number of small white shrimp in these areas has increased substantially in the last week. The region is being closed to protect these immigrating shrimp.

State territorial waters south of the Inside/Outside shrimp line, as described in Louisiana R.S. 56:495, will remain open to shrimping.

James H. Jenkins, Jr.
Secretary

0108#009

DECLARATION OF EMERGENCY

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

Hunting Regulations Fort Polk, Peason
Ridge, and Maurepas Swamp WMAs

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

Fort Polk Wildlife Management Area

Deer:

Bucks Only	October 27-November 22
Either Sex	November 23-November 25
Bucks Only	December 15-December 21
Either Sex	December 22-December 23
Bucks Only	December 24-December 28
Either Sex	December 29-December 30
Bucks Only	December 31-January 1

Peason Ridge Wildlife Management Area

Deer:

Bucks Only	November 3-November 22
Either Sex	November 23-November 25
Bucks Only	December 15-December 21
Either Sex	December 22-December 23
Bucks Only	December 24-December 28
Either Sex	December 29-December 30
Bucks Only	December 31-January 1

A Declaration of Emergency is necessary to amend the deer hunting seasons of Fort Polk and Peason Ridge WMAs since the U.S. Army has scheduled training exercises on these two Department of Defense Bases during the times that either sex hunting would have been scheduled and the Bases would be closed to the public. Either sex hunting days will be allowed at later dates when the bases would be open to the public. The Maurepas Swamp WMA is a recently acquired WMA and as such was not included with the original Notice of Intent.

Maurepas Swamp Wildlife Management Area

Deer:

Either Sex	November 23-November 25
Bucks Only	December 22-January 6
Muzzleloader	January 7-January 13
Archery	Same as Outside

Small Game and Waterfowl: Same as Outside except closed November 23-November 25 and except rabbits and squirrels may be taken by still hunting only. Waterfowl hunting after 2 p.m. prohibited.

Dr. H. Jerry Stone
Chairman

0108#054

Rules

RULE

Department of Agriculture and Forestry Horticulture Commission

Sweetpotato Weevil Quarantine (LAC 7:XV.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences has amended regulations regarding the Sweetpotato Weevil Quarantine regulations.

The Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, intends to bring the Sweetpotato Weevil Quarantine regulations up to date with current methods and technology in quarantine programs. The changes in the regulations will allow the implementation of a sweetpotato weevil eradication program, requested by industry.

This rule is enabled by R.S. 3:1652 and 3:1732.

Title 7

Agriculture and Animals

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter A. General Plant Quarantine Provisions

§103. Definitions

* * *

*Certificate Permit*Ca written document, stamp, or other form of identification approved by the department, which authorizes the movement, sale or offer for sale or storage of plants, plant products or parts thereof or regulated materials.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:317 (April 1985), amended LR 27:1175 (August 2001).

Subchapter C. Sweetpotato Weevil Quarantine

§133. Applicability of General Quarantine Regulations

A. Sweet potato plants, plant products and parts thereof and host materials for the sweetpotato weevil are subject to all pertinent provisions of the general quarantine regulations contained in Subchapter A and to the regulations contained in this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992), LR 27:1175 (August 2001).

§135. Definitions Applicable to this Subchapter

A. In addition to definitions found in §103, the following definitions shall also be applicable to this Subchapter.

*Commercial Kiln and Storage Houses*Ca buildings where sweet potatoes produced by different farmers or growers are assembled and stored.

*Compliance Agreement*Ca written agreement between the department and a Sweet Potato Dealer in which the dealer agrees to comply with the General Plant Quarantine Regulations, the provisions of this Subchapter and any conditions specified in the agreement.

*Farm Kiln or Storage House*Ca building or enclosed structure located on a farm in which sweet potatoes grown solely on said farm are stored.

*Non-Sweet Potato Area*Ca any area in which the planting, bedding, growing, or storing of any material which acts as a host for the sweetpotato weevil is prohibited.

*Platform Inspection*Ca visual examination by an inspector of sweet potatoes that have been cleaned and packed or containerized prior to the issuance of a certificate permit.

*Processing Plants*Ca canning, freezing and dehydrating plants.

*Sweet Potato Dealer*Ca person engaged in the growing for sale, offering for sale, moving or brokering of sweet potatoes, except as noted in §147.C.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992), LR 27:1175 (August 2001).

§137. Issuance and Use of Certificate Permits, Certificate Permit Tags, and Fumigation Certificates for the Movement of Regulated Material

A. From Sweetpotato Weevil-Free Designations

1. Green certificate permit tags will, upon request to the department, be issued to any person whose growing, packing and storage facilities are designated by the department as sweetpotato weevil-free and who meet the following conditions.

a. The person has a valid sweet potato dealer's permit as required by these regulations.

b. The properties or premises of the person where regulated materials are grown or stored, have been trapped or surveyed for sweetpotato weevil during the growing season in a manner approved by the department and have been found by the department to be free from sweetpotato weevil.

2. Certificate permits authorizing the movement of regulated material from sweetpotato weevil-free areas or properties or premises to points within and outside of Louisiana will be issued by the department under the following conditions.

a. The person moving the regulated material has a valid sweet potato dealer's permit as required under these regulations.

b. The person has signed a compliance agreement with the department specifying the handling of the regulated material to be moved and the proper use of the certificate permits.

3. Green certificate permit tags shall be attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such. Green certificate permit tags shall not be reused.

4. Regulated material moving into areas or properties or premises of Louisiana or into a portion of any other state designated as sweetpotato weevil-infested, unless moving under the provisions set forth in §139.D.2.c, shall not be moved back into any Louisiana sweetpotato weevil-free designated area and shall lose its sweetpotato weevil-free status.

B. From Sweetpotato Weevil-infested Designations

1. Pink certificate permit tags will, upon request to the department, be issued to any person whose growing, packing and storage facilities are designated by the department as sweetpotato weevil-infested and who possess a valid sweet potato dealer's permit as required under the provisions of these regulations.

2. Certificate permits authorizing the movement of regulated material from or within sweetpotato weevil-infested areas or properties or premises will be issued by the department under the following conditions.

a. The person has a valid sweet potato dealer's permit as required under the provisions of these regulations.

b. The person has signed a compliance agreement with the department specifying the handling of the regulated material to be moved and the proper use of the certificate permits.

c. The regulated material shall not be moved from a sweetpotato weevil infested designated area into a sweetpotato weevil-free designated area, or to any state which may prohibit entry of such regulated material, unless fumigated under the provisions set forth in §138.

d. If regulated materials are moved, then the regulated materials shall be completely enclosed in the vehicle body or covered tightly by tarpaulins or other means approved by the department in advance of movement.

e. Certificate permits attesting to regulated material fumigation and authorizing the movement of regulated material from areas or properties or premises designated as sweetpotato weevil-infested will be issued when such regulated material is inspected, found apparently free of the sweetpotato weevil and fumigated under the provisions set forth in §138 hereof.

3. Pink certificate permit tags shall be attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such tags. Pink certificate permit tags shall not be reused.

C. No regulated material may be moved or shipped within or out of Louisiana unless accompanied by a valid certificate permit.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 14:527 (August 1988), LR 16:600 (July 1990), LR 18:702 (July 1992), LR 27:1175 (August 2001).

§138. Fumigation and Maintenance of Weevil-free Status of Regulated Materials Originating From Designated Sweetpotato Weevil-Infested Areas or Properties or Premises

A. Fumigation Measures. Persons operating storage houses and/or packing sheds who desire to move regulated materials from areas or properties or premises designated by the department as sweetpotato weevil infested into areas or properties or premises designated as sweetpotato weevil-free, or to any state which may prohibit entry of such regulated material, shall:

1. enlist the services of a certified fumigator to perform the fumigation;

2. possess a valid fumigation certificate issued by a certified fumigator, indicating that the fumigation was done in accordance with all fumigant label requirements and in a manner approved by the department. Each fumigation certificate shall state the conditions and dates of fumigation;

3. fumigate with fumigants labeled for use on the regulated material and formulated and used in a manner and at a concentration approved by the department;

B. Maintenance of Weevil-free Status. Regulated materials shall be maintained in such a manner that the integrity of their weevil-free status following fumigation is retained.

1. *Fumigation chamber* Fumigated regulated materials may be stored in a fumigation chamber approved by the department, designed specifically for fumigating and storing regulated materials. The chamber shall be airtight with a self contained, screened exhaust system in place; shall possess doors that seal; shall contain a minimum of 1,000 cubic feet of space, and larger chambers must be designed to contain an even multiple of 1,000 cubic feet; shall be cleaned of all sweet potatoes, parts, and any other regulated materials between periods of fumigation and storage.

2. Tractor trailer rigs designed and constructed for use in fumigations may be used in place of a fumigation chamber provided the truck body meets the fumigation chamber requirements outlined above, with the exception of the cubic feet requirement. A variation in truck body cubic feet shall be allowed provided the variation allows adequate volume to fumigate according to the fumigant label. All entrances or openings on the truck body shall be sealed in a manner approved by the department, prior to shipment, by the use of not more than two seals.

3. If an approved fumigation chamber or tractor-trailer rig is not used then fumigation and storage of regulated materials shall be conducted as follows.

a. Regulated materials shall be placed in a storage area separate from and in no way connected to any other storage or packing areas containing non-fumigated regulated materials. Storage area must be cleaned of all sweet potatoes, parts, and any other regulated materials between periods of storage.

b. The storage area shall have been treated with an appropriately labeled chemical and in a manner approved by the department prior to initial storage of sweet potatoes harvested and fumigated that season and the storage area shall not be used to store any non-fumigated regulated materials.

c. Fumigation shall be accomplished by tenting the regulated material with a sealed tarpaulin or other suitable sealable material of adequate thickness and construction for use in fumigation with commercial fumigants.

d. Regulated materials shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material prior to, during and following fumigation. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes.

4. Packing House or Shed. Sweet potatoes fumigated, screened and stored according to these regulations may be washed and packed in the same packing house or shed as non-fumigated sweet potatoes, provided:

a. the packing house or shed and all packing equipment is cleaned of all sweet potatoes, parts, and any other regulated materials prior to washing and packing of fumigated sweet potatoes;

b. the packing house or shed is treated with an appropriately labeled chemical and in a manner approved by the department prior to each packing period involving fumigated sweet potatoes.

5. All packing boxes and other packing and shipping materials shall be held in a storage area separate from and in no way connected to any other non-fumigated materials, or be fumigated and stored according to these regulations.

6. Fumigated sweet potatoes washed and packed under approved conditions must be shipped within seven days of packing. Washed and packed sweet potatoes shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material immediately following packing and must remain enclosed until shipment. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes. Fumigated, screened sweet potatoes awaiting shipment shall be labeled with the dates of fumigation.

7. Trucks or other vehicles used to ship fumigated sweet potatoes from sweetpotato weevil infested areas or properties or premises shall be cleaned of all sweet potatoes, parts, and any other regulated materials prior to hauling fumigated sweet potatoes. Vehicle compartments previously containing shipments of non-fumigated regulated materials that were moved from or within designated sweetpotato weevil infested areas or properties or premises must be treated with an appropriately labeled chemical and in a manner approved by the department prior to loading fumigated sweet potatoes for shipment.

8. No non-fumigated sweet potatoes shall be stored, loaded or shipped with fumigated sweet potatoes.

C. Issuance of Certificate Permit Tags. Manila certificate permit tags will be issued by the department to persons meeting all sweetpotato weevil quarantine regulation and compliance agreement requirements and who desire to ship regulated materials that have been properly fumigated from areas or properties or premises designated by the department as sweetpotato weevil infested into areas or properties or premises designated as sweetpotato weevil-free, or to any state which may prohibit entry of such regulated material. Permit tags shall be attached to or within each container in a load or shipment of fumigated sweet potatoes and shall not be reused.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 16:600 (July 1990), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:703 (July 1992), LR 27:1176 (August 2001).

§139. Effect of Quarantine for Sweetpotato Weevil

A. Sweetpotato Weevil-Free Designations of Louisiana

1. The growing or storing of regulated material, including seed beds and field plantings of sweet potatoes is prohibited in areas or properties or premises declared to be non-sweet potato areas, except under special permit issued by the department. Non-sweet potato areas may include but are not limited to sweetpotato weevil-infested properties or premises, as determined by survey or trapping procedures conducted in a manner approved by the department, located in those areas of the state designated by the department as sweetpotato weevil-free.

2. Any regulated material found in non-sweet potato areas shall be disposed of in a manner approved by the department.

3. Regulated materials, properties or premises found to contain sweetpotato weevil may be subject to required treatments, handling restrictions, or destruction as determined by the department.

B. Sweetpotato Weevil-Infested Designations of Louisiana

1. Owners or persons in charge of properties or premises supporting active infestations of sweetpotato weevil within those areas or properties or premises of the state designated as sweetpotato weevil-infested may save their own seed sweet potatoes, provided that:

a. such seed sweet potatoes are graded in a manner sufficient to render them apparently free of the sweetpotato weevil;

b. such seed sweet potatoes are properly treated in a manner approved by the department at the time of storage;

c. no seed sweet potatoes, plants, vines and/or cuttings shall be sold, offered for sale or moved except those which have been inspected by the department and found to be apparently free of the sweetpotato weevil.

2. Regulated materials, properties or premises supporting active infestations of sweetpotato weevil within those areas of the state designated as sweetpotato weevil-infested may be subject to required treatments, handling restrictions, or destruction as determined by the department.

C. Statewide

1. Sweet potatoes in seedbeds shall be destroyed within 15 days after such potatoes have served their purpose, and not later than July 15 of each year. Destruction shall be in such a manner that all sweet potatoes, plants and parts are brought to the soil surface and exposed, or in such other manner as may be prescribed by the department.

2. All sweet potato fields shall be harvested by December 1 of each year by the owner of the crop. Such fields shall be destroyed within 15 days after harvesting, and not later than December 15 of each year. Destruction shall be in such a manner that all remaining sweet potatoes, plants and parts are brought to the soil surface and exposed, or in such other manner as may be prescribed by the department.

3. Sanitary Measures. Persons operating packing sheds, assembly points, processing plants and/or storage houses shall:

a. not permit loose sweet potatoes or parts of sweet potatoes to accumulate in or around any structure in which sweet potatoes are cleaned, packed, processed or stored;

b. render waste sweet potatoes and sweet potato parts unsuitable for or unavailable to the sweetpotato weevil by processing or disposal in a manner approved by the department. If it is necessary to haul host material from the place of accumulation for processing or disposal, such hauling shall be done in an approved tight-body truck or container and covered with a tarpaulin when necessary;

c. not allow sweet potatoes, sweet potato crowns and roots or parts thereof to be carried away from storage houses, processing plants, packing sheds or assembly points in water used in washing sweet potatoes;

d. not permit the sale, offer for sale or movement to any person or farm of culled sweet potatoes or sweet potato parts, except under special permit issued by the department; and

e. not move empty containers or equipment used in the handling of sweet potatoes from packing sheds or processing plants unless cleaned free of all host materials.

D. Regulated Material From Other States

1. Sweet potatoes, sweet potato plants, plant products and parts thereof, host materials, and containers and equipment used in handling sweet potatoes may not enter Louisiana unless accompanied by valid certification from the state of origin.

2. A valid state-of-origin certificate permit tag shall be attached to or placed within each container in a load of sweet potatoes entering Louisiana.

a. Only regulated material certified as grown, stored and inspected in a portion of the state of origin designated as sweetpotato weevil-free, or fumigated in accordance with these regulations, shall enter those areas or properties or premises of Louisiana designated sweetpotato weevil-free unless moving under the provisions of this Section.

b. Regulated material grown, stored or inspected in a portion of the state of origin designated sweetpotato weevil-infested or sweetpotato weevil regulated, and inspected and found apparently free of sweetpotato weevil, shall enter only those areas or properties or premises of Louisiana designated sweetpotato weevil-infested unless moving under the provisions of this Section.

c. Movement of regulated material from sweetpotato weevil-infested or sweetpotato weevil regulated areas or properties or premises through those areas or properties or premises of Louisiana designated sweetpotato weevil-free is prohibited, except when moved by common carrier with a through bill of lading; or, if moved by truck or any other conveyance, said conveyance shall be sealed by the state of origin, shall have no additional regulated material added to the shipment, and shall not be unloaded within designated weevil-free areas or properties or premises of Louisiana.

d. Regulated material originating in areas or properties or premises designated sweetpotato weevil-free that is moved into any area or property or premise designated sweetpotato weevil-infested or sweetpotato weevil regulated, except under the provisions of this Section, shall not be moved back into any designated sweetpotato weevil-free area or property or premise and shall lose its sweetpotato weevil-free status.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:704 (July 1992), LR 27:1177 (August 2001).

§141. Handling, Storage and Processing of Sweet Potatoes Within Those Areas or Properties or Premises of the State Designated Sweetpotato Weevil-Infested

A. Sweet Potatoes Treated with Approved Chemicals. There shall be no date limit on the shipment of sweet potatoes from those areas or properties or premises of the state designated sweetpotato weevil-infested, provided:

1. sweet potatoes to be marketed after April 1 following the year of production must be treated before February 28 with a chemical or chemicals labeled for sweet potato use and approved by the department; and

2. sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the department as soon as possible after final disposal of a crop of sweet potatoes.

B. Sweet Potatoes Not Treated with Approved Chemicals and/or Heavily Infested with Sweetpotato Weevil. Unprocessed sweet potatoes shall not:

1. be held in processing plants, warehouses or other storage houses on properties or premises supporting active infestations of sweetpotato weevils;

2. be moved in any manner except as provided for in §139.C.3.b;

3. be sold or offered for sale after April 1 following the year of production, except seed sweet potatoes that are apparently free of sweetpotato weevils and have been properly treated as prescribed in this Section.

C. This provision shall apply to all sweet potatoes even though previously inspected and certified for sale and movement.

D. Sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the department unless a special permit extending the deadline is issued by the department.

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

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

§143. Fees

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

B. The fee charged for sweet potatoes moving to processing plants shall be collected on the basis of the amount of purchase less 10 percent for breakdown and shrinkage while in storage.

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

D. Method of assessing fees and time when fees are to be assessed.

1. Fresh Market

a. Fees will be assessed based on average marketable yield per acre for each acre of sweet potatoes planted. The Louisiana Sweet Potato Advertising and Development Commission will determine the average yield.

b. The total acres planted by each producer will be officially determined through the use of global positioning technology or other, similarly technical means, under departmental oversight. Each producer will be provided a mapped copy of his production fields and the acres of each field.

c. One-half of the total fee assessment shall be paid on or before October 15 of each year and the remaining balance shall be paid on or before December 15 of each year.

2. Processing Plants Cassessed at the time the sweet potatoes are moved into a plant for processing or packed to be shipped as non-processed potatoes.

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

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

§145. Penalties for Violation of Sweetpotato Weevil Quarantine

A. Any person violating any portion of the sweetpotato weevil quarantine regulations, or any portion of a signed compliance agreement with the department, may be called to an adjudicatory hearing held in accordance with the Administrative Procedure Act and may be subject to a civil penalty of not more than \$5,000 per each violation per day. Proportionate costs of the hearing may be assessed against the violator. The amount of these costs shall be limited to attorneys' fees as charged to the department for the actual hearing and preparation for the hearing; and actual cost of departmental personnel time in processing violations.

B. A sweet potato dealer's permit may be suspended, revoked or placed on probation if the holder thereof fails to comply with the provisions of these regulations or with the provisions of a signed compliance agreement with the department, subject to a finding in support of such action in a properly conducted adjudicatory hearing.

C. Sweet potato plantings found in a non-sweet potato area may be destroyed at the expense of the person or persons responsible for the plantings.

D. Regulated material found in violation of these regulations or in violation of a signed compliance agreement with the department may be destroyed and/or disposed of in a manner approved by the department at the expense of the person or persons responsible for the regulated material.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:1179 (August 2001).

§147. Sweet Potato Dealer's Permit

A. All persons, including sweet potato growers and farmers, commercially growing, selling or offering for sale sweet potatoes shall not grow, move, clean, grade, pack or

repack for sale, or process in any manner sweet potatoes without a valid Sweet Potato Dealer's Permit.

B. Applicants for Sweet Potato Dealer's Certificate Permit shall complete and file the application required by the department, which shall set forth the following conditions:

1. a guarantee to reimburse any purchase price of sweet potatoes which are confiscated because of sweetpotato weevil infestation or unauthorized sale, offer for sale or movement;

2. an agreement to permit, at the dealer's cost, the disposal or destruction by an inspector of the department or the return to point of origin of any sweet potatoes sold, offered for sale, moved or moving without authorization, or infested with sweetpotato weevil.

3. a signed agreement to comply with any and all sweet potato quarantine regulations and any conditions specified in the agreement.

C. The provisions of this Section do not apply to retail grocers and other retail outlets selling or offering for sale sweet potatoes possessing a valid certificate permit and/or certificate permit tags indicating that the sweet potatoes have been inspected, and that are sold or offered for sale directly to the consumer from a permanent building at a permanent location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1653, R.S. 3:1655, R.S. 3:1732 and R.S. 3:1735.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:1179 (August 2001).

Bob Odom
Commissioner

0108#067

RULE

**Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences**

Structural Pest Control
(LAC 7:XXV.119 and 141)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission has amended regulations regarding combination liquid spot and bait and baiting system termite treatments.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to allow a liquid spot and a bait and baiting system treatment to be contracted with one contract and to set the fee for said contract.

This rule complies with and is enabled by R.S. 3:3203.

Title 7

Agriculture and Animals

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§119. Contracts for Termite Control Work

A. The licensee must enter into a written agreement for termite work with the property owner employing him, which agreement must:

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than one year after the treatment is made;
3. guarantee treatment of the property in accordance with minimum specifications for termite control work set forth in §141 hereof; and
4. provide for at least one inspection of the property prior to expiration of the agreement;
5. each contract must include an inspection diagram.

B. Each contract for termite control work shall cover only one unit or one individual property, provided that the contract may include a garage appurtenant to the unit or individual property.

C. Contracts for spot termite treatments must guarantee the area treated for a period of one year.

D. Contracts for combination liquid spot and bait and baiting system termite treatments shall follow the requirements under §119. A., B., E. and F.

E. The licensee must report to the commission, no later than the tenth day of each month, each contract for termite work which he has entered into and performed during the previous month. If no contracts were entered into or performed during the previous month, the licensee must report this fact to the commission no later than the tenth of each month.

F. The licensee shall pay a \$5 fee for each standard contract and shall pay an \$8 fee for each combination contract for liquid spot and bait and baiting system treatments reported under §119.E. above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 27:1179 (August 2001).

§141. Minimum Specifications for Termite Control Work

A. - J.8.f. ...

K. Requirements for Combination Liquid Spot and Baits and Baiting Systems Treatments

1. Any licensee or any person working under the supervision of a licensee, who applies a combination liquid spot and baits and/or baiting systems treatments, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to any application of the bait or baiting system.

2. Combination of liquid spot and bait and baiting systems treatments shall be used according to label and labeling.

3. All combination liquid spot and baits and baiting systems treatments shall be contracted and reported according to R.S. 3:3370 and LAC 7:XXV.119.E. and pay the fee as described in LAC 7:XXV.119.F.

4. Records of contracts, graphs, monitoring (if required), and applications shall be kept according to LAC 7:XXV.117.I. At termination of the contract, the pest control operator shall remove all components of bait and baiting systems.

5. All structures that cannot be treated according to the combination liquid spot and bait and baiting systems

treatment minimum specifications must have a waiver of the listed item or items signed by the owner prior to the baiting treatment. A copy of signed waiver must be filed with the Louisiana Department of Agriculture and Forestry with the monthly termite eradication reports.

6. A bait and baiting systems consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

7. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction shall bait following the label and labeling and liquid spot treat to the following minimum specifications:

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) around the perimeter of the structure, adjacent to the foundation wall. All trenches must be approximately four inches wide at the top, angled toward the foundation and sufficiently deep (minimum six inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be four inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.K.7.a. When the abutting slab is drilled, the holes must be no more than 18 inches apart, unless label requires closer distance along the above stated areas.

c. Treat bath trap(s) as per label and labeling. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap must be filled to within two inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap must also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pore, it must be drilled and treated as close as practical to the bathtub plumbing.

d. All showers must be drilled and treated as close as practical to shower plumbing according to label and labeling.

e. All other openings (plumbing, etc.) must be treated as required by label and labeling.

8. Combination liquid spot and bait and baiting systems treatments of existing pier-type construction with live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of infestation site(s) on brick/block chain wall(s) and all piers within 10 feet of an infested pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

9. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction and pier-type construction without live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat as required in LAC 7:XXV.141.K.7.c-e.

10. Whenever any property under a combination liquid spot and bait and baiting systems treatment contract becomes infested with subterranean termites, the operator shall treat the property according to the minimum specifications as stated in LAC 7:XXV.141.K.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 27:1180 (August 2001).

Bob Odom
Commissioner

0108#068

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for
School Administrators C
Honors Curriculum
(LAC 28:I.901.A)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). To be consistent with changes in the mathematics graduation requirements for 1997-98 incoming freshmen and thereafter, the Board of Elementary and Secondary Education approved mathematics requirements for the BESE Honors Curriculum. In advertising this policy change, an error was made omitting 1/2 unit of Health Education and listing 2 units of Physical Education. This action is required to correct this error.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
' 901. School Approval Standards and Regulations**

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 27:1181 (August 2001).

**High School Graduation Requirements
The State Board of Elementary and
Secondary Education
Honors Curriculum (Standard 2.099.02)**

(Effective for incoming freshmen 1997-98 and thereafter)

English	4 Units
English I, II, III, IV (No substitutions)	
Mathematics	4 Units
Algebra I or Applied Mathematics I and II; Algebra II; Geometry or Applied Geometry; and one Additional unit to be selected from Pre-Calculus, Calculus, Advanced Mathematics I or II	
Natural Science	3 Units
Biology; Chemistry; and Environmental Science, Physics of Physics of Technology	
Social Studies	3 Units
United States History; World History; and World Geography or Western Civilization	
Free Enterprise	1/2 Unit
Civics	1/2 Unit
Fine Arts Survey	1 Unit
Any two units of credit is band, orchestra, choir, dance, art or drama may be substituted for one unit of Fine Arts Survey.	
Foreign Language (In same language)	2 Units
Health Education	1/2 Unit
Physical Education	1 1/2 Units
Electives	4 Units
Total	24 Units

Weegie Peabody
Executive Director

0108#024

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Pre GED/Skills Option Program
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and

Secondary Education in LR 1:483 (November 1975). The proposed program to be added to Bulletin 741 is the Pre-GED/Skills Option Program. It provides for Pre-GED instruction for part of the day and skills courses or job-related courses for the remainder of the day. The program is intended for those students who are 16, behind in the earning of Carnegie units in order to complete high school in the typical 4-year period, and who have failed a high stakes test, or are participating in out-of-level testing. It is an alternative program outside of the regular curriculum of studies, but the students may continue to earn Carnegie units while in the program and may return to the regular program when they show evidence of ability to graduate with a regular high school diploma. The changes made to the policy as recommended by the SBESE at its February meeting are as follows:

1. that the implementation of the program be a mandate to districts, not a choice. Thus, all Louisiana schools must begin implementation by the fall of the 2001-2002 school year;
2. that full implementation of the Pre-GED/Skills programs may be phased in with full implementation by the fall of the 2002-2003 school year;
3. that the specific number of Carnegie credits required per age of student be identified for student eligibility: not more than 5 credits by age 17, 10 credits by age 18, and 15 credits by age 19;
4. that the schools/businesses that districts are encouraged to work with be changed from "vocational schools" to "postsecondary institutions and youth-serving entities."

**Title 28
EDUCATION**

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

**' 901. School Approval Standards and Regulations
A. Bulletin 741**

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:1181 (August 2001).

**Bulletin 741C Alternative Schools Section
Pre-GED/Skills Option Program**

1.151.05A school system shall implement the Pre-GED/Skills Option Program and shall obtain approval from the State Department of Education at least 60 days prior to the establishment of the program. Program components may be phased in with full implementation required by school year 2002-2003. (See High Stakes Testing Policy in Bulletin 1566.)

A program application describing the Pre-GED/Skills Option Program shall be submitted and shall address the following program requirements:

1. Students shall be 16 years of age or older and meet one or more of the following criteria:
 - *Shall have failed LEAP 21 English language arts and/or math 8th grade test for one or two years;
 - *Shall have failed English language arts, math, science and/or social studies portion of the GEE;
 - *Shall have participated in out-of-level testing or alternate assessment;
 - *Shall have earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, and not more than 15 Carnegie units by age 19.
2. Enrollment is voluntary and requires parent/guardian consent.
3. Counseling is a required component of the program.
4. The program shall have both a Pre-GED/academic component and a Skills/job training component. Traditional Carnegie credit course work may be offered but is not required. Districts are encouraged to work with local, postsecondary institutions, youth-serving entities, and/or businesses in developing the Skills component.
5. BESE will require the Pre-GED/Skills Option Program to be on a separate site. Exceptions will be considered based on space availability, transportation or a unique issue.
6. Students who complete only the Skills section will be given a Certificate of Skills completion.
7. Students will count in the October 1st MFP count.
8. Students will be included in School Accountability. While enrolled, they will be required to take the 9th grade Iowa Test or participate in out-of-level testing. All programs will be considered Option 1 for alternative education purposes, and student data will be sent back to the high schools to be included in the attendance and dropout rates and in the Iowa Test scores. (See Standard 2.006.17 of Bulletin 741.)

Refer to the Guidelines and Application Packet provided by the Louisiana Department of Education for the requirements to establish a Pre-GED/Skills Option Program.

Weegie Peabody
Executive Director

0108#020

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C School Performance Scores
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an

evolving system with different components. These changes more clearly explain and refine existing policy as follows: Clarification in the comparison data used to determine a school's Growth Target.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations**

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000), LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 27:1183 (August 2001).

Bulletin 741C Louisiana Handbook

for School Administrators C The Louisiana School and District Accountability System

2.006.03 School Performance Scores for K-8

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

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The comparison SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data. Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

1. an average of the most recent two year's test data; and
2. attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two years data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

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

- A score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students.
- A score including regular education students and students with disabilities eligible to participate in the CRT and/or NRT tests.
- For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools, the School Performance Score that includes only regular education students shall be used.

Formula for Calculating an SPS [K-8]			
The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, $[(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1$			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1
Criterion-Referenced Tests (CRT) Index Calculations [K-8]			
A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.			
Advanced	200 points		
Proficient	150 points		
Basic	100 points		
Approaching Basic	50 points		
Unsatisfactory	0 points		

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

1. Calculate the total number of points by multiplying the number of students at each Performance level times the points for those respective performance levels, for all content areas.
2. Divide by the total number of students eligible to be tested times the number of content area tests.
3. Zero shall be the lowest CRT Index score reported for accountability calculations.

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

- retained on the 8th grade campus
- must retake all parts of the 8th Grade LEAP 21

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

Transition Years [K-8]

To accommodate the phase-in of the Social Studies and Science components of the CRT tests for Elementary and Secondary Accountability Cycles, the following LEAP Test components shall be used when calculating the School Performance Scores (SPS) for K-8:

Timelines/School Years			LEAP-CRT Index Components							
Cycle	Baseline SPS Data	Growth SPS Data	Grade							
			4				8			
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies
1	1998-1999	2000-2001	✓	✓			✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓

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

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

NRT Goals and Equivalent Standard Scores

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

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

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]	
Where the 10-year and 20-year goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, then the index for that student is calculated as follows:	
Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$ SS = $(\text{Index 3rd grade} + 679.2)/4.167$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$ SS = $(\text{Index 5th grade} + 544.1)/2.941$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$ SS = $(\text{Index 6th grade} + 477.5)/2.500$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$ SS = $(\text{Index 7th grade} + 428.3)/2.174$

Formula for Calculating a School's NRT Index [K-8]	
1.	Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
2.	Zero shall be the lowest NRT Index score reported for accountability calculations.
3.	Compute the total number of index points in all grades in the school.
4.	Divide the sum of NRT Index points by the total number of students eligible to be tested.

Attendance Index Calculations [K-8]	
An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years indexes shall be calculated using the prior two year's average attendance rates as compared to the state goals.	

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%
Attendance Index Formulas		
Grades K-8		
Indicator (ATT K-8) = $(16.667 * \text{ATT}) - 1483.4$		
Where ATT is the attendance percentage, using the definition of attendance established by the Louisiana Department of Education		

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

Dropout Index Calculations [7-8]	
A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two year's average dropout rates as compared to the state goals.	

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

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

Dropout Index Formulas	
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25

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

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0 – 100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a

given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates.

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

*Indicates use of prior year data for these indexes.

Transition Years [Combination Schools]	
Combination Schools are schools that contain a 10 th and/or 11 th grade and that also contain a 4 th and/or 8 th grade.	
To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the following LEAP Test components shall be used when calculating the SPS for combination schools.	
Growth SPS Data	CRT Index Components
2001	All CRT (without 11 th grade) (Cycle 1)
2002	All CRT (without 11 th grade) (Cycle 1) All CRT (Cycle 2)
2003	All CRT (without 11 th grade) (Cycle 1) All CRT (Cycle 2)

Formula for Calculating an SPS – Accountability Cycle 1 [9-12]
 During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:

$$\text{SPS} = (.60 * \text{Grade 10 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

All intermediate results and the final result shall be rounded to the nearest tenth.

The following is an example of how this shall be done:

$$[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0$$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPS – Accountability Cycle 2 [9-12]
 During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:

$$\text{SPS} = (.30 * \text{Grade 10 CRT Index}) + (.30 * \text{Grade 11 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

In this example,

$$[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2$$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8
CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Norm-Referenced Tests (NRT) Index Calculations [9-12]

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

NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	264
20-Year Goal	75 th	288

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

Where the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index } 9^{\text{th}} \text{ grade} = (2.083 * \text{SS}) - 449.9$$

$$\text{SS} = (\text{Index } 9^{\text{th}} \text{ grade} + 449.9) / 2.083$$

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

- retained and placed on the high school campus
- must take the 9th grade NRT
- must retake only the parts of the 8th grade LEAP 21 they originally failed (English language arts and/or mathematics)

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring; the high school shall receive 50 bonus points per subject in its accountability index. A student may earn a maximum of 100 bonus points for his/her school.

Criterion-Referenced Tests (CRT) Index Calculations [9-12]	
A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School	
<ol style="list-style-type: none"> Sum the number of points earned by all students. For the NRT, there shall be one score for each student—the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade. Divide by the total number of students eligible to be tested times the number of content area tests. This provides the raw achievement index for the grade. Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and all the previous grades. This means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This shall yield the Adjusted Achievement Index. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations. 	
Example 1 – Grade 9:	
<ul style="list-style-type: none"> Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is: $(5/50) = .100$ The number of points earned on the NRT is 5000. The raw achievement index is: $5000/45 = 111.1$ The adjusted achievement index is: $111.1 \times (1 - .100) = 100.0$ 	
Example 2 – Grade 10:	
<ul style="list-style-type: none"> Another 5 students drop before October of grade 10. The grade 10 dropout rate is: $5/45 = .111$ The 40 students remaining in the class earn 10000 points on the two CRT tests. The raw achievement index is: $10000/(40 * 2) = 125.0$ The adjusted achievement index is: $125.0 \times (1 - .100) \times (1 - .111) = 100.0$ 	

Attendance Index Calculations for Grades 9-12		
An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two year' average attendance rates as compared to the state goals.		
Attendance Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%
Attendance Index Formula for Grades 9-12		
Where the 10- Year and 20- Year Goals are 93% and 96% average attendance respectively and where ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows: Indicator (ATT 9-12) = (16.667 * ATT) – 1450.0		
Example:		
<ul style="list-style-type: none"> If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7$ 		
Zero shall be the lowest Attendance Index score reported for accountability calculations.		

Dropout Index Calculations for Grades 9-12 A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the state goals.		
Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%
Dropout Index Formula for Grades 9-12 Dropout Index = 187.5 – (12.5 X dropout rate)		
Example:		
<ul style="list-style-type: none"> ▪ If the dropout rate is 4.5%, the Dropout Index would be 187.5 – (12.5 * 4.5) = 131.3 		
Zero shall be the lowest Dropout Index score reported for accountability calculations.		

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

Weegie Peabody
Executive Director

0108#023

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel
Certificate Renewal of School Psychologists (LAC 28:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. This rule change updates and clarifies outdated language. It also provides a method during the state mandated five-year renewal period to recognize the newly adopted certification as a Nationally Certified School Psychologist which requires a three-year renewal.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Standard Certificate (valid for five years, renewable)

1. Issued on completion of a school psychology training program in Louisiana which meets the requirements of current Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists.*

2. Issued to persons who have completed academic preparation in school psychology in another state and whose academic preparation, as evaluated by the Division of Teacher Standards, Assessment, and Certification, is judged to meet the requirements of the current Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists.

3. Issued to persons who hold current documentation as a Nationally Certified School Psychologist from the National Association of School Psychologists.

4.a. - 5.b. ...

B. Provisional Certificate (valid for one year; renewable once, unless lapsed)

1. Issued to persons who have completed academic preparation in school psychology that meets the requirements of current Standards for Training and Field Placement Programs in School Psychology, except for the internship. The internship shall be completed during the time of the provisional certificate in accordance with the internship requirements in current Standards for Training and Field Placement Programs in School Psychology.

B.2. - C.1.a. ...

b. six semester hours of additional graduate credit in any of the areas specified in current Standards for Training and Field Placement Programs in School Psychology; or

c. the equivalent number of Continuing Professional Development/Education Units (9.0 CEU or 90 contact hours) currently awarded by the National Association of School Psychologists, the American Psychological Association, or awarded or approved by the State Department of Education; or

d. a combination of graduate credit hours and Continuing Professional Development/Education Units equivalent to six semester hours (each semester hour = 1.5 Continuing Professional Development/Education Units) for a total of 9.0 Continuing Professional Development/Education Units; or

e. upon presentation of continuous certification as a Nationally Certified School Psychologist since the previous certification or renewal date.

C.2. ...

3. Lapsed certificates may be renewed upon verification of the criteria listed under paragraph 1 above. A Provisional Certificate may be awarded for a one-year period during which time the individual must meet the renewal requirements to be awarded the Standard Certificate.

4. A School Psychologist or School Psychological Assistant certified at Levels E, D, or C (if less than two years of experience) according to criteria previously adopted by the State Board of Elementary and Secondary Education shall have continuing approval for the provision of School Psychological services so long as such certification is kept

valid according to the previous renewal criteria. Graduate training taken to meet the renewal requirements for the previous criteria shall be earned in the areas specified in the current Standards for Training and Field Placement Programs in School Psychology.

*These standards are on file in the Division of Teacher Standards, Assessment, and Certification in the State Department of Education.

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635 (April 2000); LR 26:638 (April 2000), LR 27:1189 (August 2001).

Weegie Peabody
Executive Director

0108#021

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses (LAC 28:I.903)

In accordance with R.S. 49:950, et. seq, the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This rule change includes language relative to specific criminal offenses which is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for reinstatement of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

Title 28 EDUCATION

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

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:1190 (August 2001).

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been

convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purposes of suspension and/or revocation.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude suspension and/or revocation of a teaching certificate.

IV. When the Department is notified that any teacher has been convicted of a specific crime:

A. Department staff shall attempt to contact the teacher to inform him/her that the Department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the Department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The Board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official Board action.

D. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that a hearing will be conducted by the Board to consider revocation. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

E. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed as will all other steps in the process outlined in this policy.

V. Upon official action by the Board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the

individual may apply to the Board for reinstatement of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, vacated, or set aside, such action may be communicated to the Board through documentation from the court in which the conviction occurred. The Board may receive such information and order immediate reinstatement of the teacher's certificate.

VII. Time Restrictions on Applications for Reinstatement:

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. For other final convictions rendered zero to three years prior to revocation, reinstatement will not be considered for at least three years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

C. For other final convictions rendered four to six years prior to revocation, reinstatement will not be considered for at least two years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

D. For other final convictions rendered seven to nine years prior to revocation, reinstatement will not be considered for at least 1 year from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

E. For other final convictions rendered more than nine years prior, a teacher may apply immediately for reinstatement.

VIII. Procedures for Reinstatement:

A. An individual may apply to the board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions:

1. There have been no other arrests or convictions (the applicant must provide a current background check that is clean and clear).

2. There has been successful completion of all conditions/requirements of parole and/or probation (the applicant must provide copies of court records, sentencing recommendations, probation release forms, etc., and written verification that all requirements have been completed and/or met).

3. There is documented evidence of rehabilitation (the applicant is responsible for providing copies of every requested document).

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above (VIII.A.1 and 2) and below (VIII.C.1, 2, and 3 *required*, VIII.C.4, 5, and 6 *recommended*);

3. request a reinstatement hearing.

C. Evidence of rehabilitation is not limited to, but shall include 1, 2, and 3 (below) and should include 4, 5, and 6 (below).

1. Letter of support from the local district attorney from the jurisdiction in which the conviction occurred.

2. Letter of support from the local judge from the jurisdiction in which the conviction occurred.

3. Letter of support from the applicant's parole/probation officer, local police chief, or local sheriff.

4. Letter of support from a local school superintendent.

5. Letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.).

6. Other letters of support or written reports that verify the applicant's rehabilitation.

D. The board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

E. If the board or its designees decide to conduct a reinstatement hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

F. The committee of the Board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the Board's action.

IX. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1:

R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.)

Specifically:

- * R.S. 14:30 First degree murder
- * R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- * R.S. 14:41 Rape
- * R.S. 14:42 Aggravated rape
- * R.S. 14:42.1 Forcible rape
- * R.S. 14:43 Simple rape
- * R.S. 14:43.1 Sexual battery

- * R.S. 14:43.2 Aggravated sexual battery
- * R.S. 14:43.3 Oral sexual battery
- * R.S. 14:43.4 Aggravated oral sexual battery
- * R.S. 14:43.5 Intentional exposure to the AIDS virus
- * R.S. 14:44 Aggravated kidnapping
- * R.S. 14:44.1 Second degree kidnapping
- * R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- * R.S. 14:78 Incest
- * R.S. 14:79.1 Criminal abandonment
- * R.S. 14:80 Carnal knowledge of a juvenile
- * R.S. 14:81 Indecent behavior with a juvenile
- * R.S. 14:81.1 Pornography involving juveniles
- * R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- * R.S. 14:82.1 Prostitution; persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibited
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- * R.S. 14:86 Enticing persons into prostitution
- * R.S. 14:89 Crime against nature
- * R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- *R.S. 14:93 Cruelty to juveniles
- *R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- *R.S. 14:286 Sale of minor children
- R.S.40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
- R.S.40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; distribution
- R.S.40:968(A) Prohibited acts--Schedule III; penalties; Manufacture; distribution
- R.S.40:969(A) Prohibited acts--Schedule IV; penalties; Manufacture; distribution
- R.S.40:970(A) Prohibited acts--Schedule V; penalties; Manufacture; distribution

* Reinstatement will never be considered for crimes marked with an asterisk.

Weegie Peabody
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0108#019

RULE

Board of Elementary and Secondary Education

Compliance Handbook 2200C Guidelines
for Personnel Evaluation

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended the Compliance Handbook 2200, *Guidelines for Personnel Evaluation* (Formerly Bulletin 1525), referenced in LAC 28:I.917.A, promulgated by the

Board of Elementary and Secondary Education in LR 5:168 (July 1979). In order for Compliance Handbook 2200, *Guidelines for Personnel Evaluation*, to be in conformity with R.S. 17:3883, 17:3903, 17:3904, and 17:3905 it was revised to eliminate the Department of Education's required monitoring of the local implementation. Monitoring of the local personnel evaluation programs is to occur as deemed necessary and requested by the SBESE.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§917. Personnel Evaluation Standards and Regulations

A. Compliance Handbook 2200 (Formerly Bulletin 1525)

* * *

AUTHORITY NOTE: Mandated by Act 1 of the 1994 Louisiana Legislature, Third Extraordinary Session, and Act 38 of the Extraordinary Session of the 2000 Louisiana Legislature under the authority of R.S. 17:3881-3884, R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 5:168 (July 1979), amended LR 25:251 (February 1999), LR 27:1192 (August 2001).

Chapter 1. An Overview

Preface

The *Guidelines for Personnel Evaluation* handbook is designed to assist local school districts in the development and implementation of effective professional employee evaluation programs. This document reflects local personnel evaluation legislation as well as the State-approved guidelines for its implementation.

This handbook is divided into four major chapters. Chapter One provides a contextual background for local personnel evaluation programs. The *Historical Perspectives* section cites state legislation and State Board of Elementary and Secondary Education policies that govern local personnel evaluation programs. The *Philosophy and Purposes* section provides a rationale for these programs, while the *Implementation* section provides a brief guide to annual action steps to be taken by local districts. The final section of the first chapter, *Framework for Personnel Evaluation Programs*, lists the recommended and required components for local personnel evaluation plans.

Chapter Two, *A Template for Personnel Evaluation Plans*, provides a detailed explanation of the components identified as essential components in the framework for Personnel Evaluation Programs. The template is provided to aid local districts in the development and/or revision of personnel evaluation programs. Chapter Three, *Reporting and Monitoring*, explains the types of reporting, monitoring, and assistance that are required and/or available to local school districts.

The final chapter, *Appendices*, provides primary source materials that guide and support the elements presented in this handbook. The appendices include

- (1) the Panel II Report Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs;
- (2) the Louisiana Components of Effective Teaching,
- (3) the Standards for School Principals in Louisiana 1998;

(4) state legislation governing personnel evaluation programs; and

(5) a personnel evaluation glossary.

Historical Perspective of Personnel Evaluation in Louisiana

As required by R.S. 17:391.5, R.S. 17:24.3 (Act 621 and Act 9) of the 1977 Louisiana Legislature; and R.S. 17:391.10 (Act 605) of 1980, all local educational agencies (LEAs) in Louisiana developed accountability plans to fulfill the requirements as set forth by the laws. Specifically, Act 621 of 1977 established school accountability programs for all certified and other professional personnel. Act 9 of 1977 established a statewide system of evaluation for teachers and principals. Act 605 of 1980 gave the Louisiana Department of Education (LDE) the authority to monitor the LEAs' personnel evaluation programs. In passing these acts, it was the intent of the legislature to establish within each LEA a uniform system for the evaluation of certified and other professional personnel.

Act 506, R.S. 17:391.5, as enacted and amended during the 1992 Regular Session of the Louisiana Legislature, revised and reenacted previous LEA accountability legislation. It included provisions to strengthen and make more uniform the local teacher evaluation practices within the public schools of Louisiana. During the spring of 1992, the State Board of Elementary and Secondary Education (SBESE) authorized the convening of a Local Teacher Evaluation Program Panel (Panel II) to develop guidelines for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. Superintendents, principals, and teachers were represented on this panel. Panel II operated under the assumption that local teacher evaluation programs would be standardized if they were grounded in the same statement of philosophy and purposes, if they used common criteria to evaluate teachers, and if they included uniform procedures and guidelines.

The guidelines to strengthen local teacher evaluation programs including the Louisiana Components of Effective Teaching were entitled "*Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs*" (Appendix A) and were approved by the SBESE in September 1992. These guidelines are integrated into the content of this document. Appendix A, along with the requirements of the local accountability legislation, formed the basis for the local evaluation programs.

The SBESE also authorized the convening of the Louisiana Components of Effective Teaching (LCET) Panel (Panel I) during the spring of 1992. The charge of Panel I was to determine and to define the components of effective teaching for Louisiana's teachers. The components were to reflect what actually takes place in the classroom of an effective teacher. This thirty-five member panel was composed of a majority of teachers. The resulting *Louisiana Components of Effective Teaching* (Appendix B), which is a descriptive framework of effective teacher behavior, is intended to be a uniform element that serves as evaluation criteria in the local teacher evaluation programs.

In 1994, Act I of the Third Extraordinary session of the 1994 Louisiana Legislature was passed. Act I amended and reenacted several statutes related to Local Personnel Evaluation. In April 2000, Act 38 of the Extraordinary

Session of the 2000 Louisiana Legislature was passed. Act 38 amended, enacted, and repealed portions of the legislation regarding the local personnel evaluation process. While local school districts are expected to maintain the elements of the local personnel evaluation programs currently in place and set forth in this document, Act 38 eliminated the LDE's required monitoring of the local implementation. Monitoring of local personnel evaluation programs is to occur as requested by the SBESE.

This document, *Compliance Handbook 2200 (formerly Bulletin 1525)*, reflects the most recent local personnel evaluation legislation as well as the State-approved guidelines for its implementation. The intent of the *Compliance Handbook 2200 (formerly Bulletin 1525)* is to present a framework or template for local school systems to use in the development or review of their personnel evaluation programs. These programs must fulfill the requirements of the enacted legislation, establish a uniform system of evaluation, and denote the philosophy and unique characteristics of the local school system.

Philosophy and Purposes of Personnel Evaluation

It is clear that public schools must provide a high quality education that prepares our youth for the demands of the 21st century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this charge, the SBESE has established uniform guidelines for personnel evaluation.

Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving the instruction of and the learning environment for all students.

Supplementing many of the traditional concepts of personnel evaluation, the LDE affirms and supports the belief that evaluation is a humanistic process directed toward the growth and development of all professional personnel who determine the educational programs in the state. This vast human potential will ultimately determine the direction the educational programs will follow. Therefore, it is crucial that every effort possible be expended toward the identification and retention of the most competent and qualified personnel.

The purposes for which personnel evaluation will be used in Louisiana are as follows.

To assure the public that the educational system provides the best opportunities for all children to learn

To assure the public that the most qualified personnel are employed in every position and that effective teaching continues in the classroom

To foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators

To provide support for the professional development of new teachers during their first year of teaching

To provide procedures that are necessary to fulfill the objectives of retaining competent professional employees, to embrace sound educational principles, and to ensure the strengthening of the formal learning environment

To provide procedures for self-evaluation, personal reflection, and peer collaboration

To promote among all school personnel positive interpersonal relationships that will continually increase professional competencies

Implementation of Personnel Evaluation Programs

Activities to include in the annual implementation cycle of Local Personnel Evaluation Programs are presented below.

The LEA’s steering committee reviews and refines plans annually for implementing its local personnel evaluation program during the school year.

Local school districts may elect to submit their personnel evaluation plans and/or revisions to the LDE prior to the beginning of the next school year. The LDE receives and reviews, per request, local personnel evaluation plans and/or revisions according to the guidelines presented in *Compliance Handbook 2200 (formerly Bulletin 1525)*.

Each LEA’s steering committee implements its refined personnel evaluation program with LEA Board approval and meets annually to monitor its implementation.

Each LEA provides ongoing staff development for teachers and administrators.

Each LEA annually reports the summary results of personnel evaluation to the LDE by July 15.

Framework for LEA Personnel Evaluation Programs

Each local school board has the responsibility of providing a program for the evaluation of certified and other professional personnel employed within the system. Programs should be appropriate and tailored to the particular needs of the school district. Each school board shall have the responsibility to institute programs that address the particular needs of the school district it represents and the guidelines developed by the LDE pursuant to the laws.

Certain requirements relative to the design and development of local personnel evaluation programs have been set forth in an effort to facilitate the construction and implementation process. Organizing and numbering the personnel evaluation program plan in a manner consistent with the proposed format will be helpful to the LEA in determining that all elements of evaluation have been included. A numerical outline will also assist all parties in the review of the plan should such a review be requested or mandated by the SBESE. The remainder of this document presents information relative to the criteria for each of the following sections or elements that should be included in the LEA personnel evaluation program plan.

The list below identifies those sections that are considered essential to an effective personnel evaluation program.

- Section 1.0 Focus on Educational Improvement
- Section 2.0 Staff Involvement in the Personnel Evaluation Program
- Section 3.0 Philosophy and Purposes of Personnel Evaluation
- Section 4.0 LEA Personnel Evaluation Glossary
- Section 5.0 Impact of Personnel Evaluation
- Section 6.0 Evaluation Process Description
- Section 6.1 Evaluation Criteria
- Section 6.1A Instructional Personnel
- Section 6.1B Non-Instructional Certified and Other Professional Personnel
- Section 6.2 Accountability Relationships Register
- Section 6.3 Programs Instruments Register

- Section 6.4 Observation Process
- Section 6.5 Developing the Professional Growth Plan
- Section 6.6 Personnel Self-Evaluation
- Section 6.7 The Evaluation Period
- Section 6.8 Intensive Assistance Programs
- Section 6.9 Induction of New Teachers
- Section 6.10 Procedures for Resolving Conflict—Due Process
- Section 7.0 Staff Development for Personnel Involved in Evaluation
- Section 8.0 Process Instruments
- Section 9.0 Job Descriptions
- Section 10.0 Employment Requirements
- Section 11.0 Evaluation Description
- Section 12.0 Statement of Assurance

Chapter 2. A Template for Personnel Evaluation Plans

Chapter Two provides a detailed clarification of the components identified as essential elements in the framework for LEA Personnel Evaluation Programs. The template is provided to aid local districts in the development and/or revision of personnel evaluation programs.

Section 1.0: Focus on Educational Improvement

The first Section of the local personnel evaluation plan should present an overview of the district's philosophy and educational goals. The LEA personnel evaluation program should be well-grounded in the local school district's educational philosophy and goals. A clear message is provided as to how LEA personnel evaluation will be used to facilitate more effectively the attainment of short and long term goals for educational improvement at the district and school building levels. The overview of the district's philosophy should describe not only the LEA's philosophy and educational goals but also their relationship to the LDE's philosophy and purpose of personnel evaluation. The district's philosophy should also include the relationship of the personnel evaluation program to goals for educational improvement at the district and school building level.

Section 2.0: Staff Involvement in the Personnel Evaluation Program

The LEA will form a balanced personnel evaluation steering committee that is representative of administrators, instructional, and support services personnel who are selected by the groups they represent. In Section 2.0 of the LEA personnel evaluation plan, the LEA describes the composition and work of the LEA steering committee. This standing committee is responsible for assessing the strengths and weaknesses of the LEA's personnel evaluation program in light of the guidelines set forth in *Compliance Handbook 2200 (formerly Bulletin 1525)*. The steering committee oversees the planning and implementation of any revisions necessary to strengthen the personnel evaluation process. This committee annually evaluates the extent to which the purposes of the local personnel evaluation program are being achieved, and presents any revision of the plan to the LEA Board for its approval.

Section 3.0: Philosophy and Purposes of Personnel Evaluation

Key elements of Section 3.0 of the LEA personnel evaluation plan include a clear description of the philosophy and the purposes for which personnel evaluation is used in the local school district. The philosophy that is presented should be supported by contemporary research and grounded in the belief that all students can learn, that good teaching increases the opportunities for students' learning, and that a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for effective teaching.

One purpose of the LEA personnel evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the most qualified personnel are employed in every position, and that effective teaching continues in the classroom. Additional purposes to include and describe in Section 3.0 are the improvement of the teaching-learning process, the encouragement of creativity and innovation in planning, and the implementation of teaching strategies. Teaching strategies should foster parental involvement, integrate technology into instruction, develop student assessment practices, and employ school improvement practices that are consistent with contemporary research on effective classroom processes.

All of the purposes of the LEA personnel evaluation program should promote the professional growth and development of staff, as well as the support of new teachers.

Section 4.0: LEA Personnel Evaluation Glossary

When developing Section 4.0 of the LEA personnel evaluation plan, the LEA should include a complete listing of all evaluation terms used in the school district. Definitions of each term should be provided to assist with program consistency and standardization. A minimal list of terms and definitions to include in the LEA Personnel Evaluation Glossary is provided in Appendix E of this document. The LEA may include other terms and definitions as necessary.

Section 5.0: Impact of Personnel Evaluation

Section 5.0 of the LEA personnel evaluation plan contains a description of the methods the LEA will use to document the impact of the LEA personnel evaluation process on improving teaching and learning at the school building and district levels. This section includes a plan for annually documenting, celebrating, and sharing the accomplishments of certified and other professional personnel with the school community. The impact of personnel evaluation on the teaching and learning process at the school building and district level may be documented through the inclusion of newsletters, brochures, newspaper articles, and meeting agendas.

Section 6.0: Evaluation of Process Description

Section 6.0 contains a description of the LEA's evaluation process. The various procedures involved in the evaluation of personnel must reflect the guidelines presented within this Section. All procedures should be written clearly so that all evaluation procedures are readily discernible to all of the individuals involved.

It is important to note that Section 6.0 of *Compliance Handbook 2200 (formerly Bulletin 1525)* incorporates the work of Panel II (Appendix A) as it applies to classroom teachers. The evaluation process for principals must comply

with the *Standards for School Principals in Louisiana, 1998* (Appendix C). Furthermore, the LEA's description of the evaluation process should integrate and apply the content that is applicable and appropriate for all certified and other professional personnel. The guidelines to use in developing the description of the evaluation process for all certified and professional personnel follow.

The evaluator's assessment of performance shall be based on the criteria specified in the written job description, including the *Louisiana Components of Effective Teaching* for instructional personnel and the *Standards for School Principals in Louisiana* for building-level administrators.

The evaluator's assessment of the progress the evaluatee has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator shall be documented.

The evaluatee's self-evaluation, as well as progress toward achieving those objectives included in his/her professional growth plan shall be included in evaluation.

Section 6.1: Evaluation Criteria

In Section 6.1 the IEA defines the criteria used in the evaluation of all certified and other professional personnel. Evaluation criteria for all certified and other professional personnel must be defined clearly in writing in the job description. When designing evaluation instruments, the LEA must include a description of the standards for satisfactory performance for all personnel.

Section 6.1 A: Evaluation of Instructional Personnel

Section 6.1A outlines the evaluation criteria that the LEA will use when evaluating instructional personnel. It is important that instructional personnel know that they are evaluated on the basis of the criteria defined in their respective job descriptions including the *Louisiana Components of Effective Teaching* (Appendix B) and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all the criteria in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching. The evaluation criteria must conform to the following guidelines.

The evaluation criteria for all instructional personnel shall be stated clearly in writing in the job description.

The *Louisiana Components of Effective Teaching* shall be included in the job descriptions of instructional personnel.

The evaluation criteria shall provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness.

Section 6.1 B: Evaluation of Non-Instructional Certified and Other Professional Personnel

In this Section, the plan describes the design of appropriate instrumentation that is used in the evaluation of non-instructional certified and other professional personnel. The design of the instrument(s) must provide for the evaluation of standard criteria (the job description for which non-instructional personnel are held responsible) and the specific Professional Growth Plan designed by the evaluatee

and the evaluator. The design of the instrument(s) must conform to the guidelines listed below.

The criteria included in the job description shall be evaluated; a description of the standards for satisfactory performance shall be indicated.

The evaluation criteria for all building-level administrators shall include the *Standards for School Principals in Louisiana* (Appendix C).

The criteria for the evaluation of Professional Growth Plans shall be specified.

Section 6.2: Accountability Relationships Register

Section 6.2. of the LEA personnel evaluation program plan contains an Accountability Relationships Register. The register clearly defines the LEA's accountability relationships for all certified and other professional personnel. It is important that the LEA describe the process by which all accountability relationships are communicated annually so that all certified and other personnel know who is accountable to whom for the purposes of personnel evaluation. An example of an Accountability Relationships Register follows.

Accountability Relationships Register

Evaluatee	Evaluator
Classroom Teachers	Principals
Principals	Supervisors
Supervisors	Superintendent
Note: The Register must contain a list of all categories of evaluatees in the school district. Titles of evaluatees should match those presented on the job descriptions.	Note: The Register must contain a list of the evaluators for each evaluatee in the district. Titles of evaluators should match those presented on the job descriptions.

Section 6.3: Program Instruments Register

Section 6.3 of the LEA personnel evaluation program plan contains a register or listing of all evaluation program instruments. A numerical coding system may be used to identify all of the various evaluation forms. It is extremely helpful to standardize the location and size of the coding that is selected. A sample of a Program Instruments Register is provided below.

Program Instruments Register

Instruments	Codes
Professional Growth Plan Form(s)	PGP 1
Personnel Observation Form(s)	POF 1
Personnel Evaluation Form(s)	PEF 1
Self-Evaluation Form(s)	SEF 1
Intensive Assistance Form(s)	IAF 1

Section 6.4: Observation Process

The observation procedures for all certified and other professional personnel employed in the district are included in Section 6.4. A detailed narrative of the procedures to be employed is to be included in this subsection. Guidelines that must be addressed and incorporated in the LEA observation procedures are listed below.

The LEA must specify who will conduct the observation(s). The evaluator must conduct at least one of the required number of observation(s).

The LEA must specify how often observations will occur. A minimum of one observation every year for personnel with 0-3 years experience, and one observation every 3 years for personnel with 4+ years experience is required. (Teachers

participating in the Louisiana Teacher Assistance and Assessment Program may substitute elements of evaluation according to the LEA plan.)

The evaluator of each teacher or administrator shall conduct a preobservation conference during which the teacher or administrator shall provide the evaluator with relevant information.

The LEA must notify the evaluatee in advance when observation(s) will occur. All types of observations used must be defined in the LEA's plan.

The LEA must specify how the post-observation conference will be conducted.

The LEA must specify how copies of the completed observation forms will be disseminated and filed.

The LEA must specify how intensive assistance, if necessary, will be initiated following the observation procedures.

Instructional Personnel

In addition to the guidelines listed above, the following observation procedures are required for instructional personnel. Classroom observation is a critical aspect of the teacher evaluation process. Guidelines that must be considered and included in the LEA plan when evaluators conduct classroom observations follow.

Periodic classroom observations shall be used to evaluate teaching.

A pre-observation conference shall be held to review the teacher's lesson plan; the review may include information about the use of technology, student assessment practices, and school improvement efforts.

Observations shall be of sufficient duration to see the lesson begin, develop, and culminate.

A post-observation conference shall be held to discuss and analyze the lesson as well as to prepare an observation report.

The primary purpose of the classroom observation shall not be to rate the teacher, but rather, to reach consensus on not only commendations, but also recommendations to strengthen or enhance teaching.

Follow-up observations shall be conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.

Classroom visits may be conducted to monitor progress toward achievement of professional growth plan objectives and to provide support or assistance.

Section 6.5: Developing the Professional Growth Plan

The process that is used to develop and evaluate the Professional Growth Plan (PGP) is specified in Section 6.5. Periodic evaluation conferences are conducted to discuss and analyze job performance for the purpose of developing longer term PGPs to strengthen or enhance the job performance of all certified and other professional personnel. These PGPs must be developed at the beginning of the evaluation period and be based on a descriptive analysis of job performance rather than on only the results of a checklist or a rating scale. Appropriate timelines must be determined in regard to these procedures. Usually such plans include two to three objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. For successful, experienced personnel, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects.

Each objective includes a plan of action to guide the evaluatee's progress, as well as observable evaluation criteria that the evaluatee and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria should show clearly how achievement of the objective will impact the quality of the job performance.

The LEA process for developing and reviewing professional growth plans must conform to the guidelines listed below.

All longer term (one, two, or three year) PGPs must be reviewed and updated annually.

The PGP shall be developed at the beginning of the evaluation period. Appropriate timelines must be determined in regard to these procedures and such timelines must be given in the narrative of this subsection. The LEA must develop forms for the PGP.

PGPs shall be based on objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. (Note: Successful teachers or other professional personnel shall not be mandated to participate in any one specific growth activity.)

A plan of action and evaluation criteria shall be specified for each objective. During the annual review, documentation must be presented to support completion of the professional growth plan activities.

For successful, experienced personnel, objectives shall be used to explore new, untried, innovative ideas or projects.

The evaluator(s) and evaluatee(s) must sign and date each completed PGP form after it has been developed and again after it has been reviewed. All forms must be signed and dated prior to dissemination and filing.

It is recommended that the evaluator and the evaluatee maintain a copy of all completed forms. A copy of the PGP must be filed in the single official file at the central office.

Section 6.6: Personnel Self-Evaluation

In this section, the LEA delineates its personnel self-evaluation process. The LEA must encourage all certified and other professional personnel to assume significant responsibility for the evaluation of their performances. Ample opportunities should be provided throughout the personnel evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports that certified and other professional personnel submit as part of the personnel evaluation process. Training should be provided for all certified and other professional personnel in techniques for reflection and self-evaluation. For instructional personnel, additional staff development opportunities should be provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

In developing Section 6.6, the LEA plan for self-evaluation must address the following components.

A plan for ensuring that certified and other professional personnel are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration should be included.

Self-evaluation must be included as part of the overall annual evaluation process for all certified and professional personnel.

The plan should specify how the self-evaluation will be documented and how copies will be disseminated and filed. Documentation that self-evaluations have been completed should be placed in the evaluatee's single official file.

Section 6.7: The Evaluation Period

The evaluation of staff may vary depending on their experience and proficiency. The evaluation process for new teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for successful, experienced certified and other professional personnel tends to focus on professional growth and school improvement. New teachers and those new to the school district or new to a position will be evaluated each year through observations for the first three years in that position. (See Section 11.0, Evaluation Exemption Provisions.) More experienced certified and other professional personnel will be evaluated on the basis of observations at least once every three years. Successful, experienced certified and other professional personnel may be evaluated on a multi-year cycle that encourages staff to pursue longer-term professional growth and school improvement initiatives. An evaluation cycle may be implemented as follows.

Year One

Certified and other professional personnel are evaluated formally based on observations of the criteria listed on job descriptions, professional growth plans, and self-evaluations.

Year Two - Three

Certified and other professional personnel are evaluated on the basis of progress toward those objectives in their professional growth plan and self-evaluations. It is imperative that all certified and other professional personnel clearly understand the procedures and timelines that will be used to evaluate their performances.

The LEA must incorporate the guidelines listed below in the description of its evaluation process and time period.

The process must specify the number of evaluators per evaluatee.

The process must include how the evaluatee will be informed of the criteria of expected performance.

Provision for the annual written evaluation of all certified and other professional personnel must be included in the process.

The evaluation process should be tailored to the levels of experience and proficiency of the certified and other professional personnel.

Successful, certified and other professional personnel who are evaluated on a multi-year cycle should be encouraged to pursue more meaningful, longer-term professional growth and school improvement initiatives.

The plan must specify the procedures to be used in conducting post-evaluation conferences.

The plan must include a process for the dissemination and filing of completed evaluation forms. One copy shall be maintained in the evaluatee's single official file at the central office.

The LDE recommends that personnel who are determined, through the evaluation process, to be in need of intensive assistance and/or reinforcement, be evaluated until such performance(s) is/are corrected or dismissal is

recommended. Procedural due process is mandatory in the personnel evaluation programs, and a breach in this matter will be considered serious.

Section 6.8: Intensive Assistance Programs

This program must be designed for use by all evaluators when it becomes necessary to prepare an Intensive Assistance Program for an evaluatee who has been determined to be in need of certain assistance. (*The Intensive Assistance Program does not apply to teachers in the Louisiana Teacher Assistance and Assessment Program.*)

If it is determined through the evaluation process that an evaluatee does not satisfactorily meet the local school district's standards of performance, then that evaluatee is placed in an intensive assistance program. When the evaluatee is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the evaluatee. This plan specifies (a) what the evaluatee must do to strengthen his/her performance, what objective(s) must be accomplished, and what level(s) of performance is/are expected; (b) what assistance/support shall be provided by the school district; (c) a timeline (not to exceed two years) for achieving the objectives and the procedures for monitoring the evaluatee's progress including observations and conferences; and (d) the action that will be taken if improvement is not demonstrated. Evaluatees must continue to be evaluated until the need for intensive assistance no longer exists.

LEA's must delineate the procedures to be followed if the evaluatee fails to improve within the timelines of the intensive assistance program. R.S. 17:3902 mandates that, if an evaluatee completes the intensive assistance program and still performs unsatisfactorily on a formal evaluation, the local board shall initiate termination proceedings within six months following such unsatisfactory performance.

In this section of the LEA evaluation program description, the LEA delineates its process for intensive assistance. The LEA intensive assistance process must conform to the following guidelines.

An intensive assistance program shall be provided for evaluatees who do not meet the local school district's standards of satisfactory performance.

Any evaluatee placed in an intensive assistance program shall be informed in writing of the reason(s) for this placement.

An intensive assistance plan shall be developed for any evaluatee placed in such a program.

The local school district shall document the professional development support that is necessary to enable the certified and other professional personnel to meet the objectives of his/her plan.

The local school district shall take appropriate action in accordance with legislative, SBESE, and local school board mandates if satisfactory improvement is not demonstrated.

The intensive assistance plan must be developed collaboratively by the evaluator and the evaluatee and must contain specific information.

a. What the evaluatee needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance

b. An explanation of the assistance/support/resource to be provided by the school district

c. The evaluatee's and evaluator(s)' names and position titles

d. A space for indicating the date that the assistance program shall begin

e. The date when the assistance program shall be completed

f. The evaluator's and evaluatee's signatures and date lines (Signatures and dates must be affixed at the time the assistance is prescribed and again after follow-up comments are completed.)

g. The timeline for achieving the objective and procedures for monitoring the evaluatee's progress (not to exceed two years)

h. An explanation of the provisions for multiple opportunities for the evaluatee to improve (The intensive assistance programs must be designed in such a manner as to provide the evaluatees with more than one opportunity to improve.)

i. The action that will be taken if improvement is not demonstrated

The intensive assistance form must be designed in a manner that would provide for the designation of the level of assistance and a description of performance.

Completed intensive assistance plans and all supporting documents—such as observations, correspondence, and any other information pertinent to the intensive assistance process—must be filed in the evaluatee's single official file at the central office.

Section 6.9: Induction of New Teachers

In this section, the LEA describes its process for coordinating the induction of new teachers into the school system. Mentor support should be provided through the Louisiana Teacher Assistance and Assessment Program for the induction and professional growth of new teachers. A concerted effort should be made to insure that new teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the LEA personnel evaluation is coordinated with the State's assistance and assessment program designed for any new teacher with a provisional or temporary teaching certificate.

The LEA's induction process must consider that mentor support is provided for the induction of new teachers, that the *Louisiana Components of Effective Teaching* is a focus for the evaluation of new teachers, and that all assistance made available through the LEA personnel evaluation process is coordinated with the State's assistance and assessment program for new teachers.

Section 6.10: Procedures for Resolving

Conflict - Due Process

This section of the LEA personnel evaluation program must include the procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. All due process mandates in R.S. 17:3883(7), R.S. 17:3884, and R.S. 17:3902 must be included in the evaluation process.

The LEA must address the following components of due process.

The evaluator shall provide the evaluatee with a copy of the evaluation results within 15 working days after the completion of the evaluation. (The LDE strongly recommends that this same procedure be employed with regard to observation reports.)

A post-evaluation conference must be held following the evaluation and prior to the end of the school year in order that the results of the evaluation can be discussed. (This discussion should concern the strengths and weaknesses of the evaluatee.)

The evaluation program shall include procedures for resolving conflict in a fair, efficient, effective, and professional manner.

The evaluatee may file his/her own written response to the evaluation. (A self-evaluation form may not serve as an evaluatee's written response.)

The evaluatee may file a written response to the evaluation that will become a permanent attachment to the evaluatee's single official personnel file. The response may be a signed statement clarifying or rebutting the issue in question. (The LDE recommends that a timeline for the written response be given.)

When evaluatees are not performing satisfactorily, they must be informed in writing.

The evaluatee has the right to receive proof, by documentation, of any item contained in the evaluation that the evaluatee believes to be inaccurate, invalid, or misrepresented. If documentation does not exist, the item in question must be amended or removed from the evaluation.

The evaluatee must be provided with ample assistance to improve performance.

The evaluatee may request that an evaluation be conducted by another source. (The LDE recommends that the LEA name the source from which another evaluator may be selected.)

The confidentiality of evaluation results must be maintained as prescribed by law. (The LDE strongly recommends that copies of all evaluation documents be maintained in the files of both the evaluator and evaluatee; however, these documents must be maintained in the evaluatee's single official file.) The school board in each school district must take official action in regard to naming the individuals who shall be authorized to enter the official personnel files. The positions of these individuals must be included.

Personnel evaluation grievance procedures must be established to follow the proper lines of authority.

Section 7.0: Staff Development for Personnel Involved in Evaluation

In this section of the LEA personnel evaluation program description, the LEA delineates its plan for staff development. The school district provides training on a continuing basis for all staff involved in the evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, and classroom teachers). District staff development training is supported by the LDE. When developing the LEA staff development plan, it is recommended that the training concentrate on fostering the elements listed below.

A positive, constructive attitude toward teacher evaluation

A knowledge of State laws and LEA policies governing the teacher evaluation process and associated due process procedures

An understanding of the Louisiana Components of Effective Teaching

An understanding of the Standards for School Principals in Louisiana

An understanding of the LEA's personnel evaluation program, including the philosophy and purposes, criteria, and procedures

The LEA's plan may include a description of additional training of evaluators. Evaluator training should focus on developing the skills needed to diagnose, strengthen, and/or enhance teaching effectively. It is recommended that the following skill areas be included in the plan and description of the LEA training for evaluators.

Data collection skills necessary to document a teacher's performance accurately

Data analysis skills necessary to make accurate judgments about a teacher's performance

Conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance

Skills in developing and facilitating meaningful professional growth plans that strengthen or enhance teaching effectiveness

Skills in writing effective evaluation reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom

Section 8.0: Process Instruments

This Section contains a copy of each instrument that is currently used in the LEA's evaluation process. (Note: Included instruments should be listed in the Program Instrument Register in Section 6.3.) Suggestions that should be included in the development of the required evaluation instruments are included in the chart on the following page.

Instrument	Description
<i>Professional Growth Plan Form</i>	<ul style="list-style-type: none"> Developed for all certified and other professional personnel Includes space for objectives, as well as a plan of action and evaluation criteria for each objective Includes signature and date lines to document the initiation/ development of the plan and the annual review/update <p>Note: Multi-year PGP forms must include space for the annual review dates and signature.</p>
<i>Observation Form</i>	<ul style="list-style-type: none"> Developed to complement the evaluation form <p>Note: For instructional personnel, it is not acceptable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description.</p>
<i>Evaluation Form</i>	<ul style="list-style-type: none"> Designed for use in the evaluation process <p>Note: A checklist or rating scale is not acceptable for the evaluation of instructional personnel; rather, space must be provided for a narrative description of the evaluator's commendations and recommendations for the evaluatee.</p>
<i>Self-Evaluation Form</i>	Developed for all personnel to use in assessing their own performances
<i>Intensive Assistance Form</i>	<ul style="list-style-type: none"> Developed for use in the evaluation process Provides space for evaluators to delineate what the evaluatee needs to do to strengthen his/her performance Describes the assistance/support provided by the school district Specifies the timelines and procedures for evaluating the evaluatee's progress

Section 9.0: Job Descriptions

The LEA Personnel Evaluation Plan must contain a copy of the job descriptions currently in use in the LEA. The local board shall establish a job description for every category of teacher and administrator pursuant to its evaluation plan. The LEA must also provide copies of job descriptions to all certified and professional personnel prior to employment.

The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed.

Personnel Category	Position or Title
<i>Administration</i>	<ol style="list-style-type: none"> 1. Superintendent 2. Assistant Superintendent 3. Director 4. Supervisor 5. Coordinator 6. Principal 7. Assistant Principal 8. Any employee whose position does not require certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning 9. Any employee whose position requires certification, but whose title is not given in this list <p>Any employee who holds a major management position, but who is not required to have a college degree or certification</p>
<i>Instructional Personnel</i>	<ol style="list-style-type: none"> 1. Teachers of Regular and Special Education students Special Projects Teachers
<i>Support Services</i>	<ol style="list-style-type: none"> 1. Guidance Counselors 2. Librarians 3. Therapists 4. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning 5. Any employee whose position requires certification, but whose title is not given in this list. 6. Any employee who holds a major management position, but who is not required to have a college degree or certification

The local board has the responsibility of developing job descriptions for the various positions in the LEA in accordance with its evaluation program. The following components must be included in each job description developed by the LEA.

Position Title

Position Qualifications must be at least the minimum requirements as stated in *LDE Bulletin 746: Louisiana Standards for State Certification of School Personnel*. The qualifications must be established for the position, rather than for the evaluatee.

Title of the person to whom the evaluatee reports

Title of the person whom the evaluator supervises

Performance responsibilities of the evaluatee (Refer to * below.)

A space for the evaluatee's signature and date (Note: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.)

All certified and other personnel shall be provided with their job descriptions prior to the beginning of their employment in the school system in their position and each time their job description is revised.

*Job descriptions for instructional personnel must include the *Louisiana Components of Effective Teaching*; job descriptions for building-level administrators must include the *Standards for School Principals in Louisiana* as part of the performance responsibilities.

Section 10.0: Employment Requirements

Section 10.0 of the personnel evaluation plan should describe the LEA's policy for providing evaluation results to any school board wishing to hire a person evaluated by the LEA. In the development of this policy, the LEA must adhere to the legislation governing employment requirements. R.S. 17:3884(D) requires that any local board wishing to hire a person who has been evaluated pursuant to Act I of 1994 and Act 38 of 2000, whether that person is already employed by that school system or not, shall request such person's assessment and/or evaluation results as part of the application process. The board to which application is being made shall inform the applicant that, as part of the mandated process, the applicant's assessment and/or evaluation results shall be requested from the previous employer. The applicant shall be given the opportunity to apply, review the information received, and provide any response or information the applicant deems appropriate.

The LEA must adhere to the following guidelines when developing Section 10.0.

The school board shall request the assessment and/or evaluation results of any person it wishes to hire.

The school board shall provide other school boards with assessment and/or evaluation results of persons that the other school boards wish to hire.

The evaluatee shall be given the opportunity to review those assessment and/or evaluation results and provide any response or information that the evaluatee deems appropriate.

Section 11.0: Evaluation Exemption

In this section, the LEA describes its procedures for including/exempting from Local Evaluation those persons assessed under the statewide assistance and assessment program during the year(s) in which they are assessed. Key points to consider in the development of the LEA evaluation exemption policy follow.

Teachers participating in the Louisiana Teacher Assistance and Assessment Program may be exempt from all or part of the local evaluation accountability required by law during the year(s) that they are assessed.

An exemption from local personnel accountability shall not interfere with the right and duty of the appropriate LEA personnel to observe and evaluate the teachers in the performance of their duties.

LEA's shall maintain the right to make employment decisions.

Section 12.0: Statement of Assurance

This section of the plan includes a statement signed by the superintendent of schools and by the president of the school board assuring that the LEA personnel evaluation program has been revised and approved by the school board that governs the affairs of the LEA. The statement of assurance includes a statement that the LEA personnel evaluation program shall be implemented as written. The original Statement of Assurance must be signed and dated by the LEA Superintendent of Schools and by the President of the LEA School Board; the LDE requests that the LEA submit

the statement of assurance prior to the opening of each school year.

Chapter 3. Reporting and Monitoring

Annual Summary Reporting Format

Each LEA will submit an annual personnel evaluation report to the Louisiana Department of Education. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the Louisiana Department of Education, as well as to the LEA's. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEA's on forms provided by the LDE include, but are not limited to, the following items.

The types of degrees obtained from accredited institutions and the number of certified personnel holding each type of degree

The years of experience of teachers, administrators, central office staff (years in position)

The number of teachers teaching in each area of certification, as well as the number of administrators who are certified for their specific tasks

The total number of teachers employed in the system, including T-certified personnel and personnel given an emergency permit, an internship, or SBESE waiver

The total number of administrators, by categories (principals, assistant principals, certified central office personnel), employed in the system

The number of certified and other professional personnel evaluated by categories (teachers, principals, etc.) under previous systems as opposed to the number evaluated under the current evaluation programs based on written, documented evaluations from the preceding year

The number of certified and other professional personnel, by categories, who were evaluated as performing satisfactorily

The number of certified and other professional personnel, by categories, who were evaluated as performing unsatisfactorily

The number of certified and other professional personnel, by categories, who resigned because of less than satisfactory evaluations or for other reasons related to job performance

The number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (Include the reasons for termination.)

The number of evaluations, by categories, used to evaluate certified and other professional personnel during the reporting period (Distinguish between the number of evaluations performed for personnel in position 0-3 years as opposed to personnel in position 4 or more years.)

The number of certified personnel, by categories, who improved (from unsatisfactory to satisfactory) as a result of the evaluation process (Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.)

The number of formal grievances filed because of unsatisfactory performance ratings or disagreement with evaluation results

The number of formal hearings held because of unsatisfactory performance or disagreement with evaluation results

The number of court cases held because of unsatisfactory job performance (the number reinstated and basic reasons for reinstatement of personnel)

The number of evaluatees who received intensive assistance.

Technical Assistance Program

The LDE strives to provide assistance relative to particular problems that LEA's might encounter in the implementation of their personnel evaluation program. Upon the request of a school district, the LDE will provide professional advice and assistance in all matters concerned with personnel evaluation. This assistance and advice may be provided through contacts with local systems by LDE personnel or by contacts with the LDE by the LEA's personnel evaluation authorities.

Monitoring LEA Personnel Evaluation Programs

The Legislative mandate through R.S. 17:3883 (B)(5) requires the LDE to monitor programs of educational accountability when requested by the SBESE as deemed necessary. To fulfill the requirements of the legislation as it relates to the component of LEA personnel evaluation, the LDE is mandated to develop and implement guidelines when the monitoring of an LEA program is requested by the State Board of Elementary and Secondary Education.

To assist in the operation of LEA personnel evaluation programs as formulated by the LEA's and submitted to the LDE, the LDE established the methodology to be used when monitoring is requested. The process that the LDE will use is described in the narrative below.

Purpose

The purpose of personnel evaluation monitoring is to determine whether the LEA's evaluation has been implemented, to what extent it has been implemented, and whether it complies with the provisions of the shared accountability legislation. The monitoring is designed to attest to the assurance that the policies and procedures are in actuality the processes being implemented within the LEA. Monitoring will specifically observe the process to ascertain the extent to which the LEA is, or is not, following through on the process designated in their plan. The LDE has established the following goals and objectives for the monitoring of LEA personnel evaluation.

1. Goals

a. To verify the implementation of R.S. 17:3883 B (2) and R.S. 17:3883 B (5)

b. To determine whether such programs have been implemented

c. To determine to what extent they have been implemented

2. Objectives

a. To implement R.S. 17:3883 B(2) and R.S. 17:3883 (B), as requested

b. To collect and compile data

c. To document and analyze the implementation of the personnel evaluation plan

d. To disseminate data to proper authorities at the conclusion of monitoring

e. To maintain appropriate records/files of the monitoring process

f. To review and revise the monitoring guidelines as needed or requested by the SBESE

Procedures

Written notification will be provided to the LEA's prior to monitoring. The LDE team will function as a unit to monitor the LEA personnel evaluation program. Data will be collected, local personnel evaluation plans and evaluation records will be reviewed, and interviews may be completed as means of documentation. After monitoring has been completed, the LDE Team will submit a report to the appropriate authorities, which will include, but not necessarily be limited to, the State Superintendent of Education, the State Board of Elementary and Secondary Education, and the Superintendent of the LEA.

The LDE Team shall perform the following tasks when monitoring is deemed necessary.

Notify the LEA superintendent and contact person and secure necessary preliminary documentation (e.g. the local personnel evaluation plan).

Prepare a pre-monitoring report.

Inform the superintendent or designee and other appropriate personnel of the monitoring method and timelines to be observed when monitoring is being conducted.

Visit the LEA; collect data; compile the data by one or more of the means listed below:

- a. A pre-monitoring conference (LDE Team)
- b. A review of the pre-monitoring report with the contact person and/or other appropriate personnel
- c. A determination by the LDE Team of the compliance or failure to comply through on-site visits, completion of interviews, and/or viewing records

Review the LEA's personnel evaluation program; check the areas of the LEA's personnel evaluation programs including the following elements.

- a. The method of dissemination for the personnel evaluation program plans
- b. The method of documenting the achievement of the purposes of the LEA personnel evaluation program
- c. The accuracy of the evaluators/observers listed in Section 6.2 - Accountability Relationships
- d. The assurance that all certified and other professional personnel are included in the evaluation process
- e. The development of professional growth plans by all of the evaluatees
- f. The implementation of stated observation procedures
- g. The implementation of stated evaluation procedures
- h. The verification of the evaluatees' knowledge of evaluation criteria
- i. The verification of the dissemination of job descriptions
- j. The verification of necessary intensive assistance schedules

Conduct a post-monitoring conference; conduct a "close-out" session with the LEA Superintendent, contact person, and/or appropriate personnel.

Inform the LEA in writing of compliance, the areas of noncompliance, and of recommendations.

Provide assistance to the LEA in developing a plan of action to strengthen any noncompliance areas of the LEA's plan.

Plan for and conduct follow-up monitoring as necessary to determine implementation status of the plan of action.

Notify the SBESE of the LEA's compliance status.

Make recommendations to the SBESE.

Appendix A

Panel II Report: Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs C 1992

Introduction

Teaching is thinking,

thinking about what students need to know and be able to do,

thinking about what the teacher can do to foster such learning,

thinking about how successful the teacher has been in achieving the desired learning outcomes, and

thinking about how the teacher should teach that lesson next time.

Teacher evaluation focuses on what students know and are able to do and what the teacher can do to strengthen or enhance the level of learning in the classroom. Teacher evaluation is meaningful, in that it deals with aspects of instruction that make sense to both the teacher and evaluator. Teacher evaluation is productive and results in recommendations that improve the quality of the teaching-learning process. This conception of teacher evaluation guided the panel as it pursued its charge.

The panel's conception of teacher evaluation is consistent with the definition of evaluation found within *Bulletin 1525: Personnel Evaluation Accountability, A Guide for Implementation*, page 7, #10:

Evaluation--the process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

Distinctions between Assessment and Evaluation

The panel realized that it was important to make some distinctions between assessment and evaluation. The purpose of the state assessment program is to determine whether a teacher can teach effectively, whereas the local evaluation program determines whether a teacher does teach effectively. The Louisiana Department of Education (LDE) is responsible for the state assessment program while the local school districts are responsible for the local teacher evaluation programs. *The Louisiana Components of Effective Teaching* is utilized as performance criteria in both programs. Panel II's responsibility was to establish guidelines for strengthening and standardizing local teacher evaluation. A standardized performance-based instrument for state assessment, the Louisiana Teacher Appraisal Instrument, will be developed by Panel IV.

The Panel's Charge

The panel was charged to make recommendations for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. The panel operated under the assumption that local teacher evaluation programs would be standardized if they were a) grounded in the same statement of philosophy and purposes, b) used common criteria to evaluate teachers, and c)

included procedures that complied with uniform guidelines for teacher evaluation programs. Furthermore, the panel believed that teacher evaluation programs would be strengthened, if such philosophy and purposes, criteria, and guidelines reflected the best current thinking and research about effective teacher evaluation practices. Thus, panel members considered the current literature on teacher evaluation and then developed a statement of philosophy and purposes for teacher evaluation in Louisiana, as well as uniform guidelines for local teacher evaluation programs across the state. These guidelines include reference to common criteria that would be used to evaluate teachers, the Louisiana Components of Effective Teaching. The Louisiana Components of Effective Teaching were developed by another panel.

In addition to developing a common set of state guidelines for teacher evaluation programs, the panel developed criteria for each guideline that can be used to determine whether a local school district's teacher evaluation program complies with that guideline. The panel recommends that these guidelines be used by the Louisiana Department of Education to strengthen and to standardize teacher evaluation programs at the local school district level according to the following timeline:

1992-93 - All school districts will review their current teacher evaluation programs in light of the new state guidelines and will develop plans to strengthen their programs if necessary.

1993-94 - All school districts will implement the new practices needed to strengthen their teaching evaluation programs,

1994-95 - All school districts will continue to implement their new teacher evaluation practices and make refinements if necessary.

As local school districts proceed to review and to strengthen their current teacher evaluation programs, the panel recommends that the Louisiana Department of Education provide them with resources that can assist them in this process. Such resources could include information about teacher evaluation staff development opportunities available at the state and regional levels, examples of some more effective teacher evaluation practices being implemented in Louisiana school districts, and readings such as *A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools*¹, among others.

The statement of philosophy and purposes of teacher evaluation, as well as the guidelines for teacher evaluation programs developed by this panel are presented in the subsequent sections of this report. It is important to note that the panel viewed teacher evaluation in the generic sense, a process for the evaluation of all certified professional staff (i.e., classroom teachers, special services staff, and building, as well as district level administrators).

Philosophy and Purposes of Teacher Evaluation

As we move through the decade of the nineties, it is clear that public schools must provide a high quality education that prepares our youth for the demands of the 21st century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this, the State Board of Elementary and Secondary Education has established uniform guidelines for personnel evaluation.

Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving instruction and the learning environment for all students.

The purposes for which teacher evaluation will be used in Louisiana are as follows:

To assure the public that the educational system is providing the best opportunities for all children to learn, the best qualified personnel are employed in every position, and effective teaching continues in the classroom;

To foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators; and

To provide support for the professional development of new teachers during their period of internship.

Guidelines for Teacher Evaluation Programs

Guidelines for local school district teacher evaluation programs in Louisiana are presented in the subsequent sections of this report. Compliance criteria are provided for each guideline.

Yes - indicates that the school district meets the criterion.

No - indicates that the school district does not meet the criterion.

Partial - indicates that the school district has a plan for meeting the criterion.

A school district's teacher evaluation program is approved with respect to a particular guideline if it meets all criteria for that guideline. The program receives conditional approval if it meets some criteria and has a plan for meeting all the others. Disapproval results when the school district does not meet all the criteria for a particular guideline and has no plan to rectify this situation.

1. Focus on Educational Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used more effectively to facilitate the attainment of short and long term goals for educational improvement at the district and school building levels.

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation.	Y	N	P
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Teacher evaluation is related to goals for educational improvement at the district level.	Y	N	P
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Teacher evaluation is related to goals for educational improvement at the school building level.	Y	N	P
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Overall assessment: () Approval () Conditional approval () Disapproval

2. Staff Involvement in the Teacher Evaluation Program

A teacher evaluation steering committee is formed at the local school district level. Representative of administrators and classroom teachers, the committee is selected by each of these groups. This standing committee is responsible for assessing the strengths and weaknesses of the school district's teacher evaluation program in light of the Louisiana Guidelines for Teacher Evaluation Programs. Furthermore, it will oversee the planning and implementation of any revisions necessary to strengthen the teacher evaluation

process. Periodically, at least every three years, this committee will evaluate the extent to which the purposes of the local teacher evaluation program are being achieved.

Compliance criteria:

A representative teacher evaluation steering committee has been formed to review the current local teacher evaluation program in light of new state guidelines.	Y	N	P
This committee has balanced representation of both teachers and administrators.	Y	N	P
The committee has developed a plan for strengthening the current teacher evaluation process where necessary.	Y	N	P
The committee has developed a plan for evaluating whether the purposes of the teacher evaluation program are being achieved.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

3. Philosophy and Purposes of Teacher Evaluation

The philosophy and purposes for which teacher evaluation is used in the local school district are stated clearly in writing. This philosophy is grounded in the beliefs that all students can learn; good teaching increases the chances of students learning; and a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for good teaching.

A purpose of the teacher evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the best qualified personnel are employed in every position, and that effective teaching continues in the classroom.

Another purpose of the teacher evaluation program is the improvement of the teaching/learning process. This purpose includes the encouragement of creativity and innovation in the planning and implementation of teaching strategies that are consistent with the contemporary research on effective classroom processes. Teacher evaluation includes promoting the professional growth and development of staff, as well as providing support for new teachers during their period of internship.

In summary, teacher evaluation is pursued with the spirit that it is a process for making good teachers better, rather than one that is directed toward finding fault with teaching.

Compliance criteria:

The philosophy and purposes of the local teacher evaluation program are stated clearly in writing.	Y	N	P
The philosophy and purposes of the local teacher evaluation program have been explained to and discussed with teachers.	Y	N	P
The purposes provide the public assurances that only effective teachers continue to be employed by the school district.	Y	N	P
The purposes reflect sound principles of effective teaching and learning that are supported by contemporary research.	Y	N	P
The purposes support the improvement of the teaching-learning process, as well as the continued professional growth and development of instructional personnel.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

4. Accountability Relationships

Accountability relationships are defined clearly in writing. These relationships are communicated effectively so all professional staff know who is accountable to whom for the purposes of teacher evaluation.

Compliance criteria:

Accountability relationships are defined clearly in writing.	Y	N	P
Teachers are informed each year as to who is responsible for their evaluation.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

5. Evaluation Criteria

The evaluation criteria for each professional staff position (i.e., teachers, principals, librarians, etc.) are stated clearly in writing in the job description. Classroom teachers are evaluated on the basis of job descriptions that include the *Louisiana Components of Effective Teaching* and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching.

Compliance criteria:

The evaluation criteria for each professional staff position are stated clearly in writing in the job description.	Y	N	P
The Louisiana Components of Effective Teaching are included in the job descriptions of instructional personnel.	Y	N	P
The evaluation criteria provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

6. The Classroom Observation Process

Classroom observation is a critical aspect of the teacher evaluation process. The evaluator conducts observations that are of sufficient duration to see the lesson begin, develop, and culminate. A pre-observation conference is conducted to review the teacher's lesson plan. A post-observation conference is arranged to discuss and analyze the lesson, as well as to prepare an observation report. The primary purpose of this report is not to rate the teacher on a scale or checklist, but rather, to reach consensus on commendations, as well as recommendations for strengthening or enhancing teaching. Follow-up classroom visits and observations are conducted to determine what impact these recommendations have had on improving the quality of the teaching-learning process in the teacher's classroom.

Compliance criteria:

Teaching is evaluated through periodic classroom Observations.	Y	N	P
Observations are of sufficient duration to see the lesson begin, develop, and culminate.	Y	N	P
The primary purpose of the classroom observation is not to rate the teacher, but rather, to reach consensus on commendations, as well as to make recommendations to strengthen or enhance teaching.	Y	N	P
Follow-up classroom visits and observations are conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

7. Developing the Professional Growth Plan

Periodic evaluation conferences are conducted to discuss and to analyze teaching for the purpose of developing longer term (1-2 year) professional growth plans to strengthen or enhance the teaching-learning process in the classroom. These professional growth plans are based on a descriptive analysis of teaching rather than on only the results of a checklist or rating scale. Usually such plans include two to three objectives developed collaboratively by the teacher and evaluator. For successful, experienced teachers, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the teacher's progress, as well as observable evaluation criteria that the teacher and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria show clearly how achievement of the objective will impact the quality of the teaching-learning process in the classroom.

Compliance criteria:

Teachers develop longer-term professional growth plans to strengthen or enhance the teaching-learning process.	Y	N	P
Professional growth plans are based on objectives developed collaboratively by the teacher and evaluator.	Y	N	P
A plan of action and evaluation criteria are specified for each objective.	Y	N	P
For successful, experienced teachers, objectives are used to explore new, untried, innovative ideas or projects.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

8. Teacher Self- Evaluation

Teachers are encouraged to assume significant responsibility for the evaluation of their performance. Ample opportunities are provided throughout the teacher evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports which teachers submit as part of the teacher evaluation process. Training is provided for all teachers in techniques for reflection and self-evaluation. Additional staff development opportunities are provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

Compliance criteria:

Training is provided for teachers in techniques for personal reflection, self-evaluation, and peer collaboration.	Y	N	P
Teachers are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration.	Y	N	P
Teachers include a self-evaluation as part of the overall evaluation of their teaching.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

9. The Evaluation Period

All professional staff are evaluated in writing each year. How professional staff are evaluated may vary depending on their experience and proficiency in the classroom. The evaluation process for intern teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for tenured, experienced teachers tends to focus on professional growth and school improvement. Beginning teachers and those new to the school district will be evaluated each year through classroom observations for their first three years of employment. More experienced teachers will be evaluated on the basis of classroom observations at least once every three years. Successful, tenured teachers may be evaluated on a multi-year cycle that encourages staff to pursue longer term professional growth and school improvement initiatives: for example, a three-year cycle may be implemented as follows:

Year 1 - Teacher is evaluated formally on the basis of classroom observation

Years 2-3 - Teacher is evaluated on the basis of progress toward those objectives included in his/her professional growth plan. Periodic classroom visits and/or observations may be conducted as necessary at the discretion of the evaluator or at the request of the teacher.

It is imperative that professional staff clearly understand the procedures and timelines that will be used to evaluate their performance.

Compliance criteria:

All professional staff are evaluated in writing each year.	Y	N	P
The evaluation process is tailored to the levels of experience and classroom proficiency of the teacher.	Y	N	P
Successful, tenured teachers are evaluated on a multi-year cycle that encourages staff to pursue more meaningful, longer term professional growth and school improvement initiatives.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

10. Information Included in the Teacher Evaluation Process

The evaluation of teaching is based on one or a combination of the following:

Evaluator's assessment of teaching based on the criteria specified in the teacher's written job description, including the Louisiana Components of Effective Teaching,

Evaluator's assessment of the progress the teacher has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator, and

Teacher's self-evaluation of teaching as well as progress toward achieving those objectives included in his/her professional growth plan.

Compliance criteria:

Evaluator's assessment of teaching is based on the job description, including the Louisiana Components of Effective Teaching.	Y	N	P
Evaluator's assessment of teaching is based on progress toward the objectives included in the teacher's professional growth plan.	Y	N	P
Evaluation includes the teacher's self-evaluation of teaching, as well as his/her progress toward objectives included in the professional growth plan.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

11. Coordination with the Induction of Intern Teachers

Mentor support is provided through the teacher evaluation process for the induction and professional growth of intern teachers. A concerted effort is made to insure that intern teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the local teacher evaluation process is coordinated with the state support and assessment program for any beginning teacher with a Provisional or Temporary Teaching Certificate.

Compliance criteria:			
Mentor support is provided for the induction of intern teachers.	Y	N	P
The Louisiana Components of Effective Teaching is a focus for the evaluation of beginning teachers.	Y	N	P
Assistance made available through the local teacher evaluation process is coordinated with the state support and assessment program for beginning teachers.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

12. Intensive Assistance for Experienced Teachers

If it is determined through the teacher evaluation process that an experienced teacher does not satisfactorily meet the local school district's standards of performance, then that teacher is placed in an intensive assistance program. When the teacher is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the teacher.

The plan specifies

- a. what the teacher needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;
- b. what assistance/support is provided by the school district;
- c. a timeline for achieving the objectives and the procedures for monitoring the teacher's progress including classroom observations and conferences; and
- d. the action that will be taken if improvement is not demonstrated.

Experienced teachers can assume that they are performing satisfactorily unless they have been placed in an intensive assistance program.

Compliance criteria:			
An intensive assistance program is provided for teachers who do not meet the local district's standards of satisfactory performance.	Y	N	P
Any teacher placed in an intensive assistance program is informed in writing of the reason(s) for this placement.	Y	N	P
An intensive assistance plan is developed for any teacher placed in such a program.	Y	N	P
The local school district provides the professional development support necessary to enable the teacher to meet the objectives of this plan.	Y	N	P
The local school district takes appropriate action in accordance with legislative, SBESE and local school board mandates if satisfactory improvement is not demonstrated.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

13. Procedures for Resolving Conflict

The teacher evaluation program includes procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. A teacher must sign any evaluation report placed in his/her personnel file. Signature indicates only that the teacher has received a copy of the report. If the teacher does not agree with any aspect of a report, he/she meets with the evaluator to resolve the disagreement. If the disagreement cannot be resolved, the teacher will attach a signed statement clarifying or rebutting that aspect of the report. Also the teacher may initiate any grievance procedures that apply.

Compliance criteria:			
The evaluation program includes procedures for resolving conflict in a fair, efficient, effective, and professional manner.	Y	N	P
If the conflict cannot be resolved, the teacher is encouraged to submit a signed statement clarifying or rebutting the issue in question.	Y	N	P
Grievance procedures are clearly specified for situations where conflict cannot be resolved.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

14. Staff Development for Teacher Evaluation

The school district provides training on a continuing basis for all staff involved in the teacher evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, classroom teachers). This training is supported by the LDE and coordinated through the Regional Service Centers (RSCs). Initial training focuses on developing the following:

- a. a positive, constructive attitude toward teacher evaluation;
- b. a knowledge of state laws and local school district policies governing the teacher evaluation process and associated due process procedures;
- c. an understanding of the Louisiana Components of Effective Teaching; and
- d. an understanding of the local school district's teacher evaluation program, including the philosophy and purposes, criteria, and procedures.

Further training focuses on developing those skills needed to diagnose and to strengthen or enhance teaching effectively. The skills addressed in such training are as follows:

- a. data collection skills necessary to document a teacher's performance accurately,
- b. data analysis skills necessary to make accurate judgements about a teacher's performance,
- c. conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance,
- d. skills in developing and facilitating meaningful professional growth plans, plans that strengthen or enhance teaching effectiveness, and
- e. skills in writing effective evaluation reports, reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom.

Training undertaken by administrators to implement the teacher evaluation process effectively is counted toward the accumulation of Louisiana Administrative Leadership Academy points.

Compliance criteria

The local school district provides initial training that focuses on developing the following:

a)	a positive constructive attitude toward teacher evaluation	Y	N	P
b)	a knowledge of the laws/policies governing teacher evaluation associated due process procedures	Y	N	P
c)	an understanding of the <i>Louisiana Components of Effective Teaching</i>	Y	N	P
d)	an understanding of the school district's teacher evaluation program	Y	N	P

The local school district provides further training in the following skill areas:

a)	data collection skills necessary to document teaching accurately	Y	N	P
b)	data analysis skills needed to make accurate judgements about teaching	Y	N	P
c)	conferencing skills needed to provide clear, constructive feedback	Y	N	P
d)	skills in developing meaningful professional growth plans	Y	N	P
e)	skills in writing effective teacher evaluation reports	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

15. Impact of the Teacher Evaluation Process

The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed by the staff each spring. The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community.

Compliance criteria:

The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed each spring.	Y	N	P
The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

Implementation and Staff Development Plan

Earlier in this report, this panel recommended that the guidelines just presented be used by the LDE to strengthen and standardize local teacher evaluation programs over a three-year period. An implementation and staff development plan is provided below to guide this process.

September/October 1992

The LDE and the Regional Service Center (RSC) staff, as well as superintendents and personnel evaluation contact persons, are oriented to

- a) the Louisiana Guidelines for Teacher Evaluation Programs and
- b) the procedure for using these guidelines to strengthen and standardize teacher evaluation programs at the local school district level.

Teachers and administrators are provided a copy of the Louisiana Guidelines for Teacher Evaluation Programs and are informed how these guidelines will be used to strengthen and standardize local teacher evaluation programs.

October 1992

The local education agencies (LEA's) form an eight to twelve member teacher evaluation steering committee. The superintendent (or his/her designee) and the personnel evaluation contact person will serve on this committee. Two

other members of this committee, a teacher and a building administrator, will be selected to serve as the LEA's teacher evaluation resource persons. These two resource persons, the superintendent (or his/her designee) and the personnel evaluation contact person will comprise the LEA's Core Team for teacher evaluation. This Core Team will be trained by the LDE through the RSCs to serve as a teacher evaluation staff development resource to the local school district and its steering committee. Also, the two resource persons on this team will assist the LDE in its review of the teacher evaluation programs of other school districts in the service region.

October/November 1992

The LDE conducts regional workshops to orient the LEA Core Teams to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedures for reviewing current teacher evaluation programs in light of these guidelines.

December 1992

The Core Team orients the LEA's teacher evaluation steering committee to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedures for reviewing its current teacher evaluation program in light of these new guidelines. Then this steering committee develops and implements a plan to review and revise its teacher evaluation program. The revision plan includes:

- a. a list of the modifications/changes needed,
- b. a process and timeline for making these modifications/changes,
- c. a procedure for sharing the work of the committee with other teachers and administrators in the school district for their reaction and feedback.

January 1993

The local steering committee completes its review of the LEA's teacher evaluation program and submits a Teacher Evaluation Self-Assessment Report to the LDE by February 1, 1993. This is a self-assessment to the extent to which the LEA believes it complies with each of the Louisiana Guidelines for Teacher Evaluation Programs. The steering committee shares the essence of this Self-Assessment Report with other teachers and administrators in the school district.

February/March 1993

The LDE conducts regional workshops to orient the LEA teacher evaluation resource persons to its process for reviewing the Teacher Evaluation Self-Assessment Reports submitted by the local teacher evaluation steering committees. The LDE proceeds with its review of the Teacher Evaluation Self-Assessment Reports. The Self-Assessment Report submitted by each local teacher evaluation steering committee is examined by a three member State Review Team comprised of an LDE staff member and a teacher and an administrator resource person from another school district. The State Review Team examines the steering committee's Self-Assessment Report to determine the extent to which the LEA's teacher evaluation program complies with the Louisiana Guidelines for Teacher Evaluation Programs. The results of this review are summarized in a Teacher Evaluation Status Report that is shared later with the LEA.

March 1993

The LDE completes its review of the Teacher Evaluation Self-Assessment Reports and shares the Teacher Evaluation

Status Reports with the LEA's. Then the local teacher evaluation steering committee reviews its LEA's Status Report. Once the steering committee completes this review, it can meet with the LDE staff if it wishes to discuss any aspects of the Status Report or pose any questions it has about discrepancies between the Status Report and the LEA's Self-Assessment Report.

March-May, 1993

The local steering committee follows its plan for making changes/modifications in its teacher evaluation program. This process includes trying out any new techniques or approaches to teacher evaluation with a small sample of teachers to determine whether they would have the impact desired. Also during this period, the LDE conducts a five-day training program for Core Team members through the RSCs. The purpose of this program is to help teachers and administrators to develop the appropriate understanding of critical teacher evaluation skills to be able to go back to their school districts to train their colleagues in these skills. Topics addressed in this program would include analyzing teaching using the Louisiana Components of Effective Teaching, classroom observation, conferencing, writing effective evaluation reports, developing professional growth plans, and facilitating self-evaluation.

June 1993

The local steering committee completes its plan for implementing the local teacher evaluation program during the 1993-94 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1993 as part of its yearly Personnel Evaluation Report.

July-August 1993

The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1993-94 school year.

September 1993-May 1994

The local steering committee implements its revised teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

November 1993 and March 1994

The State Review Teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The Review Team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

June 1994

The local Steering committee reviews what it has accomplished during the 1993-94 school year and refines its plan for implementing the local teacher evaluation program during the 1994-95 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1994 as part of its yearly Personnel Evaluation Report.

July-August 1994

The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1994-95 school year.

September 1994-May 1995

The local steering committee implements its refined teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

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The State Review Teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The Review Team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

June 1995

The local steering committee reviews what it has accomplished during the 1994-95 school year and refines its plan for implementing the local teacher evaluation program during the 1995-96 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1995 as part of its yearly Personnel Evaluation Report.

Building a Capacity for Staff Development

The Implementation and Staff Development Plan just presented requires that the LDE build a capacity for staff development through its LEAs and RSCs.

In building such a capacity, it is important that training be provided by personnel that are both knowledgeable in techniques of teacher evaluation, as well as in the process of effective staff development. In summary, there is a need to identify or develop a cadre of good people to conduct the training necessary to strengthen local teacher evaluation practices.

While some out-of-state consultants could be used, it is important to develop a local, Louisiana capacity for staff development in teacher evaluation. This capacity could be accomplished by meeting with the deans in schools of education to learn what staff development resources could be provided through higher education. In addition, superintendents could be polled to obtain their recommendations of people in their districts who are doing some good things in teacher evaluation that could be called on to do training. Depending on what resources are identified through contacts with deans and superintendents, a decision would need to be made as to whether there is a need to develop further staff development resources for teacher evaluation through a trainer of trainers program for select LEA or RSC personnel.

In addition to identifying staff development resources, it is important to determine where the training will take place. Certainly, much of the training will be conducted at the RSCs and in the LEAs. Also, consideration should be given to whether some professional development centers might be established for training in teacher evaluation. These centers

would be schools where good teacher evaluation is being practiced. Teachers and administrators would go to these schools to strengthen their evaluation skills through direct involvement in the teacher evaluation process under the supervision of knowledgeable practitioners.

In concluding, this panel believes it is critical that the LDE build an adequate capacity for staff development in teacher evaluation to support its initiative to strengthen local teacher evaluation practices. Also, the LDE must develop a long range plan that clearly conveys to the LEAs those staff development resources that will be available to support local efforts to strengthen teacher evaluation programs over the next three years.

Developing a Process for the Review and Approval of Local Teacher Evaluation Programs

The focus of the first year of this plan to strengthen and standardize local teacher evaluation programs is on the review and approval of such programs. This panel recommends that an efficient and effective process be developed by the LDE for the local review, as well as State approval of teacher evaluation programs in light of the Louisiana Guidelines for Teacher Evaluation Programs. More specifically, the panel recommends that a *Teacher Evaluation Self-Assessment Report* such as the one presented in Exhibit 1 be developed to facilitate the local review of teacher evaluation programs. This *Report* would be completed first by individual steering committee members. Next their individual ratings for each guideline would be discussed and consensus would be reached as a committee. Then the LEA would submit to the LDE a *Teacher Evaluation Self-Assessment Report* that represents the consensus opinion of its teacher evaluation steering committee.

As noted earlier, the *Teacher Evaluation Self-Assessment Report* submitted by an LEA would be examined by a three-member state review team comprised of an LDE staff member and two teacher evaluation resource persons, a teacher and an administrator from another school district. This team would share the results of its review with the LEA using a *Teacher Evaluation Status Report* such as the one presented in Exhibit 2. The review team's assessment of an LEA's teacher evaluation program with respect to the Louisiana Guidelines for Teacher Evaluation Programs would consist of a consensus rating, as well as comments regarding the program's strengths and aspects that might be improved. If the review team does not approve the LEA's teacher evaluation program with respect to a particular guideline, it must justify this decision clearly in writing.

Once the LEA receives its *Teacher Evaluation Status Report*, it has 30 working days to respond to the LDE, if either it does not agree with the team's assessment or it wishes to submit a plan to comply with any guidelines for which its teacher evaluation program was not approved. In situations in which an LEA submits such a plan, the state review team for that school district would be reconvened to review this plan and to submit a revised *Teacher Evaluation Status Report*. Also, the state review team may be reconvened to deal with those situations in which the LDE does not agree with the team's assessment.

Exhibit 1

Teacher Evaluation Self-Assessment Report

This *Report* has been developed to help your local school districts to assess the status of its teacher evaluation program in light of the new Louisiana Guidelines for Teacher Evaluation Programs. You are being asked to complete this *Report* as a member of your school district's teacher evaluation steering committee. Later your steering committee will meet to a) discuss the responses of committee members and b) reach consensus as to the status of your school district's teacher evaluation program with respect to each guideline.

The Louisiana Guidelines for Teacher Evaluation Programs are listed in the subsequent section of this *Report*. Following each guideline are criteria for determining whether a school district complies with that guideline. Please review each of the criteria and circle the appropriate response. Circle . . .

Y for Yes, if you believe your school district meets the criterion;

N for No, if you believe your school district does not meet the criterion; or

P for Partial, if you believe your school district has a plan for meeting the criterion.

If you circle Y, please indicate where evidence can be found to support your rating. For example, you may simply refer to a section of your teacher evaluation plan, see pages 7-8 of District Plan. If you circle P, either attach your school district's plan for meeting that criterion or indicate in the evidence section where it can be found, (Example: see page 12 of our School Improvement Plan for 1992-93).

After you have rated each of the criteria for a particular guideline, provide an overall assessment of whether you believe your school district's teacher evaluation program should be approved with respect to that guideline. Check . . .

Approval, if your school district meets all the criteria for that guideline;

Conditional Approval, if your school district has met some of the criteria and has a plan for meeting the others; or

Disapproval, if your school district does not meet all of the criteria for that guideline and has no plan to rectify the situation.

After you have assessed the status of your school district's teacher evaluation program with respect to a particular guideline, please make a note in the Comments section of any issues or questions you want to address with your teacher evaluation steering committee when you meet later to discuss your ratings.

Your cooperation and assistance in carefully completing this *Report* are appreciated. Thank you!

Exhibit 1 (continued)

1. Focus on Education Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used to facilitate the attainment of short and long term goals for educational improvement at the district and school building levels more effectively.

Compliance criteria:
 District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation. Y N P
 Evidence:

Teacher evaluation is related to goals for educational improvement at the district level. Y N P
 Evidence:

Teacher evaluation is related to goals for educational improvement at the school building level. Y N P
 Evidence:

Overall assessment: () Approval () Conditional approval () Disapproval
 Comments:

(. . . The remaining guidelines will be presented in this same format on the subsequent pages of the *Report* . . .)

Exhibit 2
 Teacher Evaluation Status Report
 Overall Summary

District: ___ Review Team: _____

Date: _____

1. Focus on Educational Improvement

Overall assessment: () Approval () Conditional approval () Disapproval

2. Staff Involvement in the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

3. Philosophy and Purposes of Teacher Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

4. Accountability Relationships

Overall assessment: () Approval () Conditional approval () Disapproval

5. Evaluation Criteria

Overall assessment: () Approval () Conditional approval () Disapproval

6. The Classroom Observation Process

Overall assessment: () Approval () Conditional approval () Disapproval

7. Developing the Professional Growth Plan

Overall assessment: () Approval () Conditional approval () Disapproval

8. Teacher Self-Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

9. The Evaluation Period

Overall assessment: () Approval () Conditional approval () Disapproval

10. Information Included in the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

Exhibit 2 (continued)

11. Coordination with the Induction of Intern Teachers

Overall assessment: () Approval () Conditional approval () Disapproval

12. Intensive Assistance for Experienced Teacher

Overall assessment: () Approval () Conditional approval () Disapproval

13. Procedures for Resolving Conflict

Overall assessment: () Approval () Conditional approval () Disapproval

14. Staff Development for Teacher Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

15. Impact of the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

General Comments: _____

Name: _____

Title: _____

Signed: _____

Exhibit 2 (continued)
 Teacher Evaluation Status Report
 Analysis by Guideline

1. Focus on Educational Improvement

Compliance criteria:
 District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation. Y N P

Teacher evaluation is related to goals for educational improvement at the district level. Y N P

Teacher evaluation is related to goals for educational improvement at the school building level. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval
 Comments:

(. . . The remaining guidelines will be presented in this same format on the subsequent pages of the *Report* . . .)

Focusing Beyond the Classroom Teacher

As local school districts review their teacher evaluation programs, it is essential that the evaluation process is strengthened for all professional staff, not just for classroom teachers. Just as the LDE took leadership in the development of the Louisiana Components of Effective Teaching and appropriate procedures for the evaluation of classroom teachers, this panel recommends that the LDE take leadership in developing state criteria and appropriate procedures for the evaluation of their professional staff such as principals, special area teachers, and guidance counselors. Until this issue is addressed by the LDE for school principals, the panel encourages the LEAs to consider the purposes, criteria, and procedures which follow when reviewing their process for evaluating school principals.

Purposes of Principal Evaluation

The purposes of evaluation state why the principal is being evaluated. The basic reasons for which a principal is evaluated are as follows:

School Improvement Cto promote the improvement of school programs and the enhancement of student learning,

Professional Growth and Development Cto foster the professional growth and development of new and continuing principals,

Selection Cto select the best qualified persons for principalships, and

Accountability Cto ensure that only effective principals continue in that role in the school district.

School districts tend to place more emphasis on those purposes dealing with school improvement and professional growth, and less emphasis on those dealing with accountability. This approach is most appropriate, since the goal is to select highly qualified principals who focus their attention on school improvement needs, and to strengthen the performance of these administrators using an evaluation process which fosters professional growth and development. In settings where this approach is taken, less attention needs to be paid to the traditional accountability purpose of evaluation.

Proficiencies of the Effective Principal

The Proficiencies of the Effective Principal² presented on the next page are criteria that can be applied when evaluating a school principal. The term *proficiencies* is used here rather than *competencies*, since *competency* merely suggests adequacy, while *proficiency* connotes a high degree of knowledge or skill. The principal behaviors included in these proficiencies are very similar to those identified through a recent study conducted by the Louisiana Administrative Leadership Academy.

Leadership

Defining Direction. . .

1. Exercises vision in defining the school mission and goals
2. Effectively and clearly communicates goals within and without the community
3. Sets high expectations and standards for attainment of school goals
4. Identifies and analyzes relevant information before making decisions or committing resources
5. Provides incentive to excel for both teachers and student
6. Communicates clearly and persuasively
7. Serves as a role model

Instructional Development

8. Monitors student achievement
9. Collects, analyzes and interprets student and school data to identify areas for instructional and program development
10. Uses knowledge of research in curriculum and instruction to initiate school improvement
11. Evaluates professional and support staff constructively
12. Coaches teachers to enhance their instructional effectiveness
13. Engages in a program of ongoing professional development

Human Relations

Consideration. . .

14. Gives specific and frequent feedback
15. Maintains positive school climate through the use of humor
16. Recognizes and praises the accomplishments of students, teachers and staff

Collaboration. . .

17. Fosters teamwork and collegiality
18. Elicits participation in decision making
19. Facilitates group processes and resolves conflict
20. Encourages participatory leadership on the part of the staff
21. Listens to others

Management

School Program Management. . .

22. Plans and prepares an appropriate budget and manages funds effectively
23. Seeks and allocates appropriate resources (materials, money, time) to support curriculum
24. Implements school programs within the confines of district goals and policies
25. Schedules curricular and co-curricular activities efficiently and effectively

26. Understands and applies knowledge of organizations and community politics in generating support for the school

27. Fosters community support for the school and its programs

The Rules and Regulations. . .

28. Identifies norms, guidelines and procedures for school operation

29. Develops clear school rules

30. Develops effective discipline and attendance policies

31. Accepts responsibility for in-school behavior of students, teachers and staff

General Operations. . .

32. Monitors the overall operation of the school

33. Ensures that the physical plant is kept in good order

34. Protects instructional time

35. Maintains a visible presence in the school

Procedures for Principal Evaluation

The most commonly accepted process for evaluating principals is the performance objectives approach. This approach is outlined below.

A Step-by-Step Evaluation Procedure for Principals³

I. Determine Needs

1. The principal reviews:

- a. position description
- b. administrative skills
- c. current district and/or building goals

2. The supervisor (evaluator) reviews:

- a. the above four items
- b. current performance in relation to the requirements

of the job

II. Formulate Work Plan for the Year

1. Principal identifies needs for the coming year based on perceptions of past and current performance.

2. Supervisor reflects on the principal's needs based on past and current performance.

3. Both confer to decide whether the evaluation objective should be a development plan to upgrade existing competencies and/or an improvement plan to correct specific deficiencies.

4. Both discuss necessary activities to achieve the goals of jointly agreed-upon plan.

III. Complete and Implement Work Plan

1. Principal puts work plan in writing, gets approval of supervisor and carries out plan's activities.

2. Supervisor reviews and reacts to principal's work plan and monitors progress in carrying it out.

3. Both parties meet to conduct progress reviews in December and make modifications in plan if needed.

4. Principal completes implementation of work plan.

IV. Assess Results

1. Principal completes self-evaluation form and transmits it to supervisor.

2. Supervisor receives evaluation from principal, completes evaluation of principal's performance and notifies principal of date and place of evaluation conference.

V. Discuss Results

1. Principal and supervisor meet and review principal's evaluation and supervisor's evaluation.

2. They sign final forms.

3. They plan for next evaluation cycle.

Concluding Remarks

This panel has made a number of recommendations directed toward strengthening and standardizing local school districts' teacher evaluation programs. While these recommendations will change teacher evaluation practices in most school districts, simply change was not the primary goal of the panel. Throughout its efforts, the primary intent of the panel was to improve the quality of teacher and learning continually in our schools' classrooms. This improvement was the goal of the Children First Act that led to the reform of teacher evaluation practices in Louisiana. This goal should be the foremost in the minds of teacher evaluation steering committees as they revise or refine their teacher evaluation practices. The true test of whether a teacher evaluation process is effective is evidence that the process has a demonstrable impact on what happens to children in our schools. We are confident that teachers and administrators will perceive our recommendations as an opportunity to implement teacher evaluation practices that improve or enhance the quality of education for children in Louisiana.

Appendix B

Louisiana Components of Effective Teaching C1992, Revised 1998

Domain I. Planning

Planning is an important aspect of the teaching/learning process and is primarily a mental activity. As a result, a pre-conference is essential to discuss plans and the learning environment. Assessment should be made following the pre-conference. The focus of the pre-conference is to be on the components and attributes in the planning domain and any additional teacher-supplied information. Daily written plans should follow local policy. It is the recommendation of this panel that written planning does not go beyond what is required by the local school district.

Component A. The teacher plans effectively for instruction.

Attributes:

1. Specifies learner outcomes in clear, concise objectives

It is not necessary to specify different objectives for each child or groups of children.

2. Includes activity/activities that develop objectives

A required number of activities is not specified because this decision must be made by the teacher.

3. Identifies and plans for individual differences

It is not necessary to specifically describe ways individual differences are to be met in written plans. This will be discussed in the pre-conference.

4. Identified materials, other than standard classroom materials, as needed for lesson.

5. Standard classroom materials include such things as textbooks, chalkboard, pencils, paper, etc.

6. State method(s) of evaluation to measure learner outcomes

7. Evaluation may be formal or informal.

8. Develops an Individual Education Plan (IEP) and/or IFSP*

The Individualized Education Program (IEP) and/or Individualized Family Service Plan (IFSP) will meet state guidelines.

* For special education teachers only.

Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

Organizes available space, materials, and/or equipment to facilitate learning

Promotes a positive learning climate

Component B. The teacher maximizes amount of time available for instruction.

Attributes:

Manages routines and transitions in a timely manner

Manages and/or adjusts allotted time for activities planned

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

Establishes expectations for learner behavior

Uses monitoring techniques to facilitate learning

This may include reinforcing positive behavior, redirecting disruptive behavior, as well as, other methods.

Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best-suited to determine effective instruction for his/her classroom.

It is the responsibility of the observer to discuss the lesson with the teacher for clarification. It is important that the observer understand that variations in the lesson may occur during delivery and that the teacher makes adjustments as necessary to accommodate the needs and responses of students. The post-conference should provide an opportunity for the teacher to present his/her rationale for any modifications during the lesson.

The observer must take into account the individual plans of Act 504, special education regulations, and any other identifiable groups.

Component A. The teacher delivers instruction effectively.

Attributes:

Uses technique(s) which develop(s) lesson objective(s)

Technique(s) may include teacher-directed activity/activities or student-centered activity/activities.

Sequences lesson to promote learning

Sequencing means that the teacher initiates, develops, and closes the lesson with continuity.

Uses available teaching material(s) to achieve lesson objective(s)

Adjusts lesson when appropriate

The teacher integrates technology into instruction

Component B. The teacher presents appropriate content.

Attributes:

Presents content at a developmentally appropriate level

The teacher is knowledgeable of the content and relates it to the abilities and interests of the students.

Presents accurate subject matter

Relates relevant examples, unexpected situations, or current events to the content

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

Accommodates individual differences

The teacher recognizes that students perform at different levels and provides opportunities for them to become involved. There are many ways of accommodating individual differences among children. Some of these are not always evidenced in observations, but in the planning. It may be necessary for the observer to ask the teacher for clarification of this in the post-conference.

Demonstrates ability to communicate effectively with students

Stimulates and encourages higher order thinking at the appropriate developmental levels

Encourages student participation

Component D. The teacher demonstrates ability to assess and facilitate student academic growth

Attributes:

Consistently monitors ongoing performance of students

Uses appropriate and effective assessment techniques.

Assessing student performance may include formal and/or informal assessment procedures as well as formative and summative. Feedback may be verbal or non-verbal.

Provides timely feedback to students

Produces evidence of student academic growth under his/her instruction

Domain IV. Professional Development
(Non-Performance)

Professional development is not a performance component. It provides the opportunity for the teacher to use the evaluation process as a professional development plan. Just as children use different modes of learning, teachers also need to use a variety of channels to achieve professional development. The professional development plan may include a variety of ways in which teachers can engage in growth activities. The successful teacher shall not be mandated to participate in any one specific growth activity.

During the post-observation conference, the principal/designee and the teacher will set a date to discuss the proposed professional self-development plan for the teacher.

Component A. The experienced teacher plans for professional self-development.

These recommended activities are not limited to but may include being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; serving on SACS committees; reading professional literature; conducting research; evaluating programs; participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities will be monitored on the local level.

If an experienced teacher does not perform satisfactorily, an intensive assistance plan shall be developed.

Component B. The new teacher plans for professional self-development.

The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V as agreed upon with his/her principal and other members of the support/assistance team.

If through the assessment process the new teacher does not demonstrate competence in Domains I, II, III, and/or V, a professional growth plan shall be developed which concentrates on the necessary improvements.

If through the assessment process the new teacher has demonstrated competence in Domains I, II, III, and V, the new teacher may select to engage in self-selected growth activities as outlined in Component A of Domain IV.

Domain V. School Improvement

Component A. The teacher takes an active role in building-level decision making

Attributes:

Participates in grade level and subject area curriculum planning and evaluation

Serves on task forces and decision-making committees, when appropriate

Implements school improvement plan

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

Provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning

Encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom

Seeks community involvement in instructional program

Appendix C

Standards for School Principals in Louisiana C1998

Standards for Principals in Louisiana

Standard #1 - Vision:

The principal engages the school community⁴ in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Standard #2 - Teaching and Learning:

The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Standard #3 - School Management:

The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Standard #4 - School Improvement:

The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Standard #5 - School Community Relations:

The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Standard #6 - Professional Development:

The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Standard #7 - Professional Ethics:

The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner

Elaborated Standard: Vision

Vision: The principal engages the school community⁴ in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- a. a "preferred" future⁵ regarding the success of all students;
- b. group process strategies for melding the diverse values and expectations of the school community into a shared understanding of desired student outcomes;
- c. theories of child and human development, the teaching-learning process, and models of and processes for on-going school improvement; and
- d. relevant research findings and strategies for using data to develop and maintain the school vision.

Dispositions

The principal believes in, values, and commits to

- a. the centrality of students to the school vision and goals;
- b. involving the school community in establishing the school vision and goals;
- c. respecting the existing school and community cultures while working for changes that improve outcomes for all students;
- d. stewardship of the school vision, and sponsorship of school goals; and
- e. enabling students to think critically about complex issues.

Performances

The principal demonstrates the ability to

- a. work collaboratively with the school community to develop and maintain a shared school vision;
- b. bring the school vision to life by using it to guide decision making about students and the instructional programs;
- c. maintain faculty focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;
- d. maintain open communication with the school community and effectively convey high expectations for student learning to the community;
- e. provide opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing school improvement;
- f. monitor, assess, and revise the school vision and goals as needed; and
- g. foster the integration of students into mainstream society while valuing diversity.

Elaborated Standard: Teaching and Learning

Teaching and Learning: The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Knowledge and Skills

The principal has knowledge, skills, and understanding of

- a. research and theories related to teaching, learning, curriculum development and integration, and motivation;
- b. methods for effectively communicating high standards and high expectations for student achievement;
- c. strategies for creating an empowering environment that supports innovative teaching and powerful learning⁶;
- d. supervisory and observational techniques that promote effective teaching and learning in a growth oriented environment
- e. authentic, psychometrically sound⁷ methods for assessing student learning
- g. emerging technologies and their use in enhancing student learning.

Dispositions

The principal believes in, values, and commits to

- a. all children's learning at high levels,
- b. excellence and life-long learning,
- c. collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking, and
- d. developing a caring environment that nurtures teaching and learning.

Performances

The principal demonstrates the ability to

- a. recognize, model, and promote effective teaching strategies that enable students to apply what they learn to real world experiences;
- b. encourage and support both the use of innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;
- c. conduct frequent classroom visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;
- d. foster a caring, growth-oriented environment for faculty and students, one in which high expectations and high standards for student achievement are emphasized; and
- e. promote collaboration and team building among faculty.

Elaborated Standard: School Management

School Management: The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Knowledge and Skills

The principal has knowledge, skills, and understanding of

- a. organizational theory and principles of organizational development;
- b. human resources management and development, including related/support/ancillary services;
- c. local, state, and federal laws, policies, regulations, and procedures;
- d. sound fiscal procedures and practices;
- e. time management to maximize the effectiveness of the organization; and
- f. current technologies that support management functions.

Dispositions

The principal believes in, values, and commits to

- a. building a safe, orderly environment;
- b. upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;
- c. upholding high standards in the day-to-day operations of the school and using current technology;
- d. making management decisions to enhance learning and teaching; and
- e. involving members of the school community⁸ in shared decision-making processes.

Performances

The principal demonstrates the ability to

- a. maintain a safe, secure, clean, and aesthetically pleasing physical school plant;
- b. establish and/or implement laws, policies, regulations, and procedures that promote effective school operations;
- c. maintain a positive school environment where good student discipline is the norm;
- d. manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;
- e. manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective school staff;
- f. monitor support services such as transportation, food, health, and extended care responsibly;
- g. provide and coordinate appropriate co-curricular and extra-curricular activities;
- h. use shared decision making effectively in the management of the school;
- i. manage time and delegate appropriate administrative tasks to maximize attainment of the school goals;
- j. use available technology effectively to manage school operations; and
- k. monitor and evaluate school operations and use feedback appropriately to enhance effectiveness.

Elaborated Standard: School Improvement

School Improvement: The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Knowledge and Skills

The principal has knowledge, skills, and understanding of

- a. methods by which information from various sources can be used to establish challenging standards for self, faculty, students, and the school;
- b. strategies for monitoring progress toward reaching the standards established;
- c. professional literature related to teaching, learning, curriculum, organizational and staff development, and change processes;
- d. the school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community; and
- e. methods of data collection, analysis, interpretation, and program evaluation.

Dispositions

The principal believes in, values, and commits to

- a. empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the school community;
- b. working toward consensus and compromise among members of the school community, guided by the school vision and goals;
- c. examining one's own assumptions, practices, and beliefs in the light of new knowledge;
- d. accepting limitations and mistakes from self and others while maintaining commitment to the standards established;
- e. encouraging faculty experimentation in order to maximize opportunities for all students to learn; and
- f. promoting a school culture that values and promotes individual and collaborative reflection and learning.

Performances

The principal demonstrates the ability to:

- a. provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and school goals;
- b. grow professionally by engaging in professional development activities and making such activities available to others;
- c. facilitate school-based research and use these and other research findings to plan school improvement initiatives, pace the implementation of these changes, and evaluate their impact on teaching and learning;
- d. foster the genuine continuous involvement and commitment of the school community in promoting the progress of all students toward attaining high standards; and
- e. enhance school effectiveness by appropriately integrating the processes of teacher selection/evaluation and professional development with school improvement.

Elaborated Standard: Professional Development

Professional Development: The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Knowledge and Skills

The principal has knowledge, skills, and understanding of

- a. theories related to motivation, adult learning, and staff development;
- b. sound pedagogical practices and emerging technologies;
- c. current trends in terms of social, political and cultural influences on education;
- d. research, measurement, and assessment strategies;
- e. organizational learning for school cultures, goal setting, change processes, and group dynamics; and
- f. resource management.

Dispositions

The principal believes in, values, and commits to

- a. life long learning for self and others;
- b. ongoing change processes;

- c. faculty expertise and collaborative work strategies; and
- d. fostering creativity and establishing high expectations in self and others.

Performances

- The principal demonstrates the ability to
- a. communicate a focused vision for both school and individual professional growth;
 - b. use research and data from multiple sources to design and implement professional development activities;
 - c. secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;
 - d. provide opportunities for individual and collaborative professional development;
 - e. provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels; and
 - f. assess the overall impact of professional development activities on the improvement of teaching and student learning.

Elaborated Standard: School-Community Relations

School-Community Relations: The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Knowledge and Skills

- The principal has knowledge, skills, and understanding of
- a. the composition of the school community including relevant demographic statistics and trends, competing issues and values, and available resources;
 - b. successful strategies for establishing positive school-community relations and fostering parental and community participation;
 - c. techniques for promoting the positive aspects of the school and communicating with the media effectively; and
 - d. effective interpersonal communication skills.

Dispositions

- The principal believes in, values, and commits to
- a. establishing a partnership with the school's community for mutually supportive relationships;
 - b. promoting the school as an integral part of the community;
 - c. diversity as a strength; and
 - d. promoting the positive aspects of the school, celebrating successes, acknowledging the school's shortcomings, and involving the community in overcoming problems within the school.

Performances

- The principal demonstrates the ability to
- a. be visible and involved in the community and treat members of the school community equitably;
 - b. involve the school in the community while keeping the school community informed;
 - c. use school-community resources to enhance the quality of school programs, including those resources available through business and industry;
 - d. recognize and celebrate school successes publicly; and
 - e. communicate effectively both interpersonally and through the media.

Elaborated Standard: Professional Ethics

Professional Ethics: The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Knowledge and Skills:

- The principal has knowledge, skills, and understanding of
- a. various perspectives on ethics;
 - b. his/her own principled convictions about what is best for students and the ethical implications of those convictions;
 - c. relevant laws, policies, regulations, and procedures and the relationship of these to protecting the rights of individuals; and
 - d. ethical means for improving school programs.

Dispositions

- The Principal believes in, values, and commits to
- a. being accurate in providing information while respecting the rights of others;
 - b. caring for the feelings of others;
 - c. principled action in upholding the substance of laws, policies, regulations, and procedures; and
 - d. using the influence of the principalship constructively and productively in the service of all students.

Performances

- The principal demonstrates the ability to:
- a. model ethical behavior at both the school and community levels;
 - b. communicate to others expectations of ethical behavior;
 - c. respect the rights and dignity of others;
 - d. provide accurate information without distortion or violating the rights of others;
 - e. develop a caring school environment in collaboration with the faculty and staff;
 - f. apply laws, policies, regulations, and procedures fairly, consistently, wisely, and compassionately;
 - g. minimize bias in self and others and accept responsibility for his/her own decisions and actions; and
 - h. address unethical behavior in self and others.

Appendix E

Louisiana Department of Education

Personnel Evaluation Glossary In order that consistency in terminology be maintained on a statewide basis, the LDE has established a list of terms and the definitions of each. Careful consideration of each should be given during the development of the LEA personnel evaluation programs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA plan for personnel evaluation. The definitions below must be adopted by all LEAs.

Accountability Shared responsibility for actions relating to the education of children.

Administrator Any person whose employment requires professional certification issued under the rules of the board in *Bulletin 746*, or who is employed in a professional capacity other than a teacher.

Assessment The process by which the Louisiana Department of Education determines whether a new teacher who is seeking to retain or to acquire a regular teaching certificate can sufficiently demonstrate the Louisiana Components of Effective Teaching to qualify for the teaching credential being sought.

Assistance levelCthe number of times assistance has been prescribed.

Certified school personnelCthose persons whose positions require LDE certification.

CriteriaCdemonstrable levels of performance upon which a judgment or decision may be based.

Due ProcessCfair and impartial treatment as guaranteed under the law, including, but not limited to, the 1st, 5th, and 14th Amendments to the Constitution of the United States; Section 1983 of the Civil Rights Act of 1871; Title VII of the Civil Rights Act of 1964; and Title IX of the Educational Amendment of 1972, relative to substantive and procedural requirements.

DutiesCthose actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

Educational accountabilityCthe respective shared responsibilities and duties of the following groups: local school boards, administrators, principals, teachers, and other personnel; the LDE; parents and students; and other governing authorities as specified by the constitution and laws of the state.

EvaluateeCone who is evaluated.

EvaluationCthe process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

Evaluation PeriodCthe period of time during each school year during which the evaluation program will be conducted

EvaluatorCone who evaluates.

GoalCa statement of broad direction or intent which is general and timeless and which is not concerned with a particular achievement within a specified time period.

Instructional PersonnelCthose LEA personnel who provide classroom instruction (e.g., classroom teacher, special education teacher, special projects teacher).

Intensive Assistance PlanCthe plan that is implemented when experienced personnel do not meet the local school system's standards of performance through the personnel evaluation process. This plan specifies what the evaluatee needs to do to strengthen his/her performance, what assistance/support is provided by the local system, the timelines and procedures for monitoring the progress, and the action that will be taken if improvement is not demonstrated.

Job DescriptionCa statement of the position title, qualifications, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria that specify the level of job skill required. (The *Louisiana Components of Effective Teaching* must be included for instructional personnel, and the *Standards for Principals* must be included for building-level administrators.) Space must be provided for signature and date.

LEAClocal educational agency, parish/city school board, local school system.

LEA Steering CommitteeCa local school district committee representing instructional, certified, and other

professional personnel to review the current personnel evaluation program.

LDECLouisiana Department of Education.

Multi-OpportunityCmore than one opportunity.

New TeacherCany full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting; one who is not an administrator and who is employed for the first time in a public school in this state after August 1, 1994; one who holds a regular teaching certificate, which when issued was valid for three years; or one who is authorized under law or board regulation to teach temporarily while seeking a regular teaching certificate.

Non-Instructional Certified and Other Professional School PersonnelCthose LEA personnel who do not provide classroom instruction.

ObjectiveCa devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

ObservationCthe process of gathering facts, noting occurrences, and documenting evidence of performance.

Other professional school personnelCall school employees whose positions do not require a teaching certificate but do require a college degree and/or employees without a college degree who assume major management functions by directing, administering, or managing significant departments or divisions within the LEA.

Performance criteriaCgeneral and specific standards by which personnel may be evaluated and on which judgments and decision making may be based.

PhilosophyCa composite statement of the relationship between the individual and society based upon beliefs, concepts, and attitudes from which the goals and purposes of the district's mission are derived.

Professional Growth PlanCa written plan formulated by the satisfactorily-performing evaluatee to enhance his/her skills and performance. The plan includes specific goal(s), objective(s), action plans, timelines, and evaluation criteria.

Public SchoolsCpublic elementary and secondary schools governed by parish or city school boards and under the supervision of the State Board of Elementary and Secondary Education (SBESE).

School BoardCparish or city school board governing public elementary and secondary schools.

School DistrictCthe area of each parish or municipality under the jurisdiction of a local school board.

School PersonnelCteachers, librarians, counselors, administrators, and other professional personnel of the public schools of the state, including members of the professional staff of the LDE.

Self-EvaluationCthe process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the characteristics of the given situation, and the specific standards for performance pre-established for the position; to be submitted by the evaluatee to the appropriate evaluator for use in the compilation of the individual's evaluation report.

Single Official Personnel FileCsingle personnel file maintained in the LEA central office. At minimum, the contents of the single official personnel file must include

- 1) documentation for the annual review or update of job descriptions and self-evaluations,
- 2) copies of completed observations and evaluations, and
- 3) completed professional growth plans or evidence to support the initiation and annual review of long term growth plans.

Staff DevelopmentCprocess designed for groups of LEA personnel with similarities guided by school/district goals and plans. It should encourage collective growth in a common direction and lead to an enhanced repertoire of skills/concepts.

StandardCthat which is set up and established by an authority or by mutual acceptance as a basis for the measure of quantity, value, or quality.

Standard of PerformanceCan authoritative or mutually established level of accomplishment.

TeacherCany full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting including a librarian, an assessment teacher, a speech therapist, and a counselor; one who is not an administrator; and who has successfully completed the Teacher Assistance and Assessment Program or who is not required to participate in the Teacher Assistance and Assessment Program.

TriennialCoccurring every third year.

Uniform Evaluation SystemCa system of evaluation that applies the same procedures in a consistent manner to all employees of each type or class of certified employees, as well as other professional school personnel.

¹Iwanicki, E. F. (1992) A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools. Storrs, CT: The Connecticut Institute for Personnel Evaluation, Department of Educational Leadership, The University of Connecticut

²From: Iwanicki, E.F. & Shibles, M. (1990). A Guide to the Process of Evaluating School Principals. P.O. Box 220, East Lyme, CT: The Connecticut Principals' Academy, p. 7.

³From: McCurdy, J. (1983). The Role of the Principal in Effective Schools: Problems & Solutions (an AASA Critical Issues Report). Arlington, VA: American Association of School Administrators, p. 89.

⁴School community - individuals who have interests in or are affected by events at the school, including administrators, faculty, staff, students, parents, and external community members, such as those associated with business, civic, and service organizations, etc.

⁵Preferred future - an understanding and conviction to teachers and students that opportunities available to students are not limited.

⁶powerful learning - learning that occurs when students are proactive in developing skills through intrinsically challenging activities that build both cognitive and affective skills, and that require both group work and individual effort (adapted from Levin, H. (1996). Accelerated Schools: The background (pp.3-23). In C. Finnan, E.P. St. John, J. McCarthy, and S.P. Slovacek (Eds.). Accelerated schools in action: Lessons from the field. Thousand Oaks, CA: Corwin)

⁷psychometrically sound - data that are valid and reliable; refers to data from tests and other forms of assessment.

⁸School community - individuals who have interests in or are affected by events at the school including administrators, faculty, staff, students, parents, and external community members, such as those associated with business, civic, and service organizations, etc.

Weegie Peabody
Executive Director

0108#022

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Commission Bylaws (LAC 28:V.113)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with §952 of the Administrative Procedure Act, has amended its governing bylaws.

Title 28

EDUCATION

Part V. Student Financial AssistanceC Higher Education Loan Program

Chapter 1. Student Financial Assistance Commission Bylaws

§113. Rights, Duties and Responsibilities of the Executive Staff of the Commission

A.1. - 2. ...

B. Executive Director

1. The executive director shall be the executive head and chief administrative officer of the Office of Student Financial Assistance. The executive director will be responsible to the commission for the conduct of the Office of Student Financial Assistance in all affairs and shall execute and enforce all of the decisions, orders, rules and regulations of the commission with respect to the conduct of the Office of Student Financial Assistance. The executive director shall be appointed by and shall hold office at the pleasure of the commission. The executive director's discretionary authority shall be broad enough to enable him/her to meet his/her responsibilities, in the day-to-day operations of the Office of Student Financial Assistance, and shall include, but not be limited to, the authority to authorize and execute purchase orders, requisitions, agreements, and contracts for supplies, equipment, subscriptions, borrower credit and tracing information, and other materials and information necessary to maintain such day-to-day operations, provided such authority shall extend only to small purchases authorized by R.S. 39:1596 and an executive order of the governor.

B.2 - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1265 (July 1998), LR 25: 654 (April 1999), LR 25:1091 (June 1999), LR 27:1218 (August 2001).

Mark S. Riley
Assistant Executive Director

0108#013

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
Early High School Graduation
(LAC 28:IV.301 and 703)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended the provisions of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28 EDUCATION

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

Chapter 3. Definitions

§301. Definitions

* * *

*High School Graduate*Cfor 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 31 of that year for the purpose of applying deadlines. 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 31 of that year.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 27:36 (January 2001), LR 27:1219 (August 2001).

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

§703. Establishing Eligibility

A. - G.1.d. ...

2. A student 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 §301, not earlier than the first semester following the academic year (high school) in which the student graduated. A student who 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 actually 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 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 26:67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1998 (August 2000), LR 26:1996, (September 2000), LR 26:2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:174 (February 2001), LR 27:1219 (August 2001).

Mark S. Riley
Assistant Executive Director

0108#011

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
Scholarship/Grant Programs
(LAC 28:IV.703, 803, 903, 1103, 2113, and 2303)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28 EDUCATION

Part IV. Student Financial AssistanceC Higher Education Scholarship and Grant Programs Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. ...

1. Be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

A.2. - A.5.c. ...

d.i. successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

iii. if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that

said student was in good standing at the time the student last attended such school; and

A.6. - G.2.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (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 26:67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1998 (August 2000), LR 26:1996, (September 2000), LR 26:2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:1219 (August 2001).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. ...

1. be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

A.2. - 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 26:67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001).

Chapter 9. TOPS-Teacher Award

§903. Establishing Eligibility

A. ...

1. be a U.S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

A.2. - 9. ...

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 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 27:1220 (August 2001).

Chapter 11. Rockefeller State Wildlife Scholarship

§1103. Establishing Eligibility

To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and

2. ...

3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by final deadline set forth in §503.B.; and

4. - 9.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 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001).

Chapter 21. Miscellaneous Provisions and Exceptions

§2113. Revision of the Core Curricula

A. LASFAC shall continually consult with BESE and the Louisiana Board of Regents to evaluate the adequacy of the TOPS core curricula to prepare students for postsecondary studies. Upon receipt of a written recommendation to change the core curriculum from BESE or the Louisiana Board of Regents, and to which the other board has concurred, LASFAC shall seek legislative amendment to effect the recommendation.

B. LASFAC is authorized by law to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course. Prior to initiating rule making to authorize a name change, LASFAC must seek the recommendation of BESE and the Louisiana Board of Regents. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the Secondary Programs of Study contained in the Louisiana Handbook for School Administrators (LDE Bulletin 741). Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by LASFAC and such recommendations shall be submitted directly to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division.

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 27:1220 (August 2001).

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. ...

1. be a U.S. Citizen; and

2. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001).

Mark S. Riley
Assistant Executive Director

0108#012

RULE

Tuition Trust Authority Office of Student Financial Assistance

Authority Bylaws (LAC 28:VI.209)

The Louisiana Tuition Trust Authority (LATTA), the statutory body created by R.S. 17:3091-3099.2 in compliance with §952 of the Administrative Procedure Act, has amended its governing bylaws.

Title 28

EDUCATION

Part VI. Tuition Trust Authority

Chapter 2. Bylaws

§209. Committees

A. - E. ...

F. Executive Committee

1. The executive committee shall consist of seven members.

2. - 3. ...

4. The remaining members, for a total of seven members, shall be appointed by the chairman of the authority from the other members of the authority.

5. The executive committee shall consider such matters as shall be referred to it by the authority and shall execute such orders and resolutions as shall be assigned to it at any meeting of the authority.

6. However, the authority may not delegate to the executive committee the final determination of the rate of interest to be paid on education savings accounts of record at the close of the calendar year.

7. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

8. The executive committee shall also approve all budget adjustments prior to submission to the appropriate authority.

9. In the event that an emergency requiring immediate authority action shall arise between authority meetings, it shall be the duty of the executive committee to meet in emergency session to take such action as may be necessary and appropriate.

10. The executive committee shall report the actions it takes in emergency session to the authority for ratification at the authority's next meeting.

G. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, IR 23:1656 (December 1997), amended LR 27:190 (February 2001), LR 27:1221 (August 2001).

Mark S. Riley
Assistant Executive Director

0108#016

RULE

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
Program (LAC 28:VI.315)

The Louisiana Tuition Trust Authority (LATTA) has amended rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2).

Title 28

EDUCATION

Part VI. Student Financial AssistanceC Higher

Education Savings

Title 28

EDUCATION

Part IV. Student Financial AssistanceC Higher

Education Scholarship and Grant Programs

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - C.2. ...

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGs) Fund earned an interest rate of 6.83 percent.

D. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance LR 26:2267 (October 2000), amended LR 27:1221 (August 2001).

Mark S. Riley
Assistant Executive Director

0108#015

RULE

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
Program (LAC 28:VI. 107 and 307)

The Louisiana Tuition Trust Authority (LATTA) has amended rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2) to clarify restrictions on the allocation of tuition assistance grants (TAGS).

**Title 28
EDUCATION**

**Part VI. Student Financial AssistanceC Higher
Education Savings**

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

* * *

Fully Funded Account Can account having a balance, including contributions, earnings on contributions, TAGs and interest accrued thereon, which is equal to or greater than five times the annual *tuition* at the highest cost Louisiana public college or university as annually determined by the administering agency prior to the beneficiary's scheduled date of first enrollment. Once *fully funded*, an account continues to be *fully funded* if disbursements, refunds, or both reduce the amount of the balance below that of a *fully funded account*.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001).

Chapter 3. Education Savings Account

§307. Allocation of Tuition Assistance Grants

A. - E.2. ...

3. are not fully funded accounts; and

E.4. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001) LR 27:1222 (August 2001).

Mark S. Riley
Assistant Executive Director

0108#014

RULE

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

Asbestos-Containing Materials in Schools and State
Buildings (LAC 33:III.2707 and 2721)(AQ216)

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 Air Quality regulations LAC 33:III.2707 and 2721 (Log #AQ216).

LAC 33:III.2707.B.1 requires local education agencies and state governments to conduct reinspections of all friable and nonfriable known or assumed asbestos-containing building material in each building that they lease, own, or otherwise use at least every three years after a management

plan is in effect. The federal rule, which forms the basis for this rule, only requires management plans and reinspections in primary and secondary schools. The revision to the rule removes that requirement of reinspection in state buildings saving the state 6-7.5 million dollars every three years. The rule will continue to require initial inspections by accredited inspectors, 6-month surveillance inspections by properly trained personnel, and management plans in state buildings. The basis and rationale for this rule are to make Louisiana's regulations equivalent to federal regulations with regard to asbestos reinspections in state buildings saving the state 6-7.5 million dollars every three years.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 27. Asbestos-Containing Materials in Schools
and State Buildings Regulation**

§2707. Inspection and Reinspections

* * *

[See Prior Text in A - A.4.f.v]

B. Reinspection

1. At least once every three years after a management plan is in effect, each local education agency shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each building that they lease, own, or otherwise use:

a. review previous inspection data in the management plan and compare to existing school conditions and correct for any changes;

* * *

[See Prior Text in B.1.b - 2]

3. For each area of a school, each person performing a reinspection shall:

* * *

[See Prior Text in B.3.a - d]

e. visually inspect, sample, analyze, and assess the conditions of building materials that have been added to the school since the last inspection or reinspection;

* * *

[See Prior Text in B.3.f - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1222 (August 2001).

§2721. Training and Periodic Surveillance

* * *

[See Prior Text in A - B.2.b]

c. submit to the person designated to carry out general local education agency or state government responsibilities under LAC 33:III.2705 a copy of such record for inclusion in the management plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and R.S. 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by

the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1222 (August 2001).

James H. Brent, Ph.D.
Assistant Secretary

0108#066

RULE

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

Incorporation by Reference 40 CFR Part 51
(LAC 33:III.2156, 2157, 2158, 2159, and 2160)(AQ213)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.2156, 2157, 2158, 2159, and 2160 (Log #AQ213).

The department is adopting by reference 40 CFR Part 51, Appendix M to alleviate word processing/printing problems that have occurred as a result of the numerous graphics which appear in the text of the regulations. Adopting the federal regulations by reference will ensure that Louisiana's regulations are identical to the federal regulations and have not been corrupted by computer problems. These federal regulations currently exist in the Air Quality regulations. This Rule will simply remove the federal language from LAC 33:III.Chapter 21, Subchapter N and replace it with a reference to the federal regulations in 40 CFR Part 51, Appendix M. Any existing non-federal language has been retained and renumbered. Additional sections of Chapter 21 have been added to the final Rule to correct citations referencing text being deleted and incorporated by reference. The basis and rationale for this Rule are to ensure that Louisiana's regulations are identical to federal regulations by incorporating by reference into the Air Quality regulations (LAC 33:III) the latest version of the federal regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 21. Control of Emission of Organic
Compounds
Subchapter N. Method 43C Capture Efficiency Test
Procedures**

§2156. Definitions

For purposes of this regulation, the following definitions and abbreviations apply:

BE—a building or room enclosure that contains a process that emits VOC. If a BE is to serve as a PTE or TTE,

the appropriate requirements given in 40 CFR, part 51, appendix M, method 204, section 3.4 must be met.

[See Prior Text]

PTE—a permanent total enclosure, which contains a process that emits VOC and meets the specifications given in 40 CFR, part 51, appendix M, method 204, section 6.

TTE—a temporary total enclosure which is built around a process that emits VOC and meets the specifications given in 40 CFR, part 51, appendix M, method 204, section 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1679 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1223 (August 2001).

§2157. Applicability

[See Prior Text in A]

B. If a source installs a PTE that meets the requirements in 40 CFR, part 51, appendix M, method 204, and which directs all VOC to a control device, the capture efficiency is assumed to be 100 percent, and the source is exempted from the requirements described in LAC 33:III.2158. This does not exempt a source from performance of any control device efficiency testing required under these or any other regulations. In addition, a source must demonstrate all criteria for a PTE are met during the testing for control efficiency.

[See Prior Text in C - C.1.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1679 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1223 (August 2001).

§2158. Specific Requirements

[See Prior Text in A - C]

1. Gas/Gas Method Using TTE. The specifications to determine whether a temporary enclosure is considered a

$$CE = \frac{Gw}{(Gw + Fw)}$$

TTE are given in 40 CFR, part 51, appendix M, method 204, section 5. The capture efficiency equation to be used for this protocol is:

where:

CE = capture efficiency, decimal fraction.

Gw = mass of VOC captured and delivered to control device using a TTE.

Fw = mass of fugitive VOC that escapes from a TTE.

40 CFR, part 51, appendix M, method 204C, section 9 is used to obtain Gw. 40 CFR, part 51, appendix M, method 204D, section 9 is used to obtain Fw.

2. Liquid/Gas Method Using TTE. The specifications to determine whether a temporary enclosure is considered a

TTE are given in 40 CFR, part 51, appendix M, method 204, section 5. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{(L - F)}{L}$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOC input to process.

F = mass of fugitive VOC that escapes from a TTE.

40 CFR, part 51, appendix M, method 204, section A.10 is used to obtain L. 40 CFR, part 51, appendix M, method 204D, section 9 is used to obtain F.

3. Gas/Gas Method Using the Building or Room (BE) in which the Affected Source is Located as the Enclosure and in which G and F are Measured while Operating only the Affected Facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{G}{G + F_B}$$

where:

CE = capture efficiency, decimal fraction.

G = mass of VOC captured and delivered to a control device.

F_B = mass of fugitive VOC that escapes from building enclosure.

40 CFR, part 51, appendix M, method 204C, section 9 is used to obtain G. 40 CFR, part 51, appendix M, method 204E, section 9 is used to obtain F_B.

4. Liquid/Gas Method Using the Building or Room (BE) in which the Affected Source is Located as the Enclosure and in which L and F are Measured while Operating only the Affected Facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{(L - F_B)}{L}$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOC input to process.

F_B = mass of fugitive VOC that escapes from building enclosure.

40 CFR, part 51, appendix M, method 204, section A.10 is used to obtain L. 40 CFR, part 51, appendix M, method 204E, section 9 is used to obtain F_B.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1679 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1223 (August 2001).

§2159. Recordkeeping and Reporting

* * *

[See Prior Text in A-C]

D. A source utilizing a PTE must demonstrate that this enclosure meets the requirement given in 40 CFR, part 51, appendix M, method 204 for a PTE during any testing of a control device.

E. A source utilizing a TTE must demonstrate that its TTE meets the requirements given in 40 CFR, part 51, appendix M, method 204 for a TTE during testing of their control device. The source must also provide documentation that the quality assurance criteria for a TTE have been achieved.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001).

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR part 51, appendix M, as amended July 1, 2000, are hereby incorporated by reference.

B. The volumes containing those federal regulations listed in Subsection A of this Section may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

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

1. Method 204C, Section 8.2.3.1. A sampling point shall be centrally located outside of the temporary total enclosure (TTE) at four equivalent diameters from each natural draft opening (NDO), if possible.

2. Other NDOs

a. This step is optional. Determine the exhaust flow rate, including that of the control device, from the enclosure and the intake air flow rate. If the exhaust flow rate divided by the intake air flow rate is greater than 1.1, then all other NDOs are not considered to be significant exhaust points.

b. If the option above is not taken, identify all other NDOs and other potential points through which fugitive emissions may escape the enclosure. Then use the following criteria to determine whether flow rates and VOC concentrations need to be measured:

i. using the appropriate flow direction indicator, determine the flow direction. An NDO with zero or inward flow is not an exhaust point;

ii. measure the outward volumetric flow rate from the remainder of the NDOs. If the collective flow rate is 2 percent, or less, of the flow rate from 40 CFR part 51, appendix M, method 204E, section 8.1.1, then these NDOs, except those within two equivalent diameters (based on NDO opening) from VOC sources, may be considered to be nonexhaust points;

iii. if the percentage calculated in Subsection C.2.b.ii of this Section is greater than 2 percent, those NDOs (except those within two equivalent diameters from VOC sources) whose volumetric flow rate totals 2 percent of the flow rate from 40 CFR part 51, appendix M, method 204E, section 8.1.1 may be considered as nonexhaust points. All remaining NDOs shall be measured for volumetric flow rate and VOC concentrations during the capture efficiency (CE) test;

iv. the tester may choose to measure VOC concentrations at the forced exhaust points and the NDOs. If the total VOC emissions from the NDOs are less than 2

percent of the emissions from the forced draft and roof NDOs, then these NDOs may be eliminated from further consideration.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001).

James H. Brent, Ph.D.
Assistant Secretary

0108#065

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

**NRC Radiography Requirements and Minor Corrections
(LAC 33:XV.Chapters 1, 3, 4, 5, 6, 7, 13, and 15)(RP027*)**

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.Chapters 1, 3, 4, 5, 6, 7, 13, and 15 (Log #RP027*).

This Rule is identical to federal regulations found in 62 FR 28948, 5/28/97; 63 FR 37059, 7/9/98; 10 CFR 30.71.Schedule A and B, 34.3, 34.21, 34.23(b), 34.35(a), 34.31(a) and (b)(1), 34.41, 34.47(a)(3), 34.71, and 71.5(b), 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

This Rule package consists of amendments affecting licenses for industrial radiography and radiation safety requirements for industrial radiographic operations. Added language includes procedures for exposure devices containing depleted uranium (DU) shielding, personnel monitoring control language to include electronic personal dosimeters, and new definitions to comply with current federal language. Amendments to various recordkeeping policies include the addition of records at temporary job sites and applicable field stations, the addition of records pertaining to the safety and training of radiographers and radiographer trainees, and changing some recordkeeping requirements from two years to three years. Also included in multiple chapters are additions of safety provisions and minor corrections to citations. To comply with current federal regulations the Appendices in Chapter 3 have been renamed as follows: Appendices A and B will be renamed Schedules A and B, respectively; Appendices C, D, and E will be renamed Appendices A, B, and C, respectively. The overall impact of this Rule will be a streamlining of industrial radiographic operations through the addition and modification of various safety and recordkeeping requirements. As a Nuclear Regulatory Commission Agreement State, in accordance with the NRC Agreement signed on May 1, 1967, Louisiana has accepted the

responsibility for promulgating regulations that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended. In certain areas defined by the NRC, state regulations must be the same as NRC regulations. The extent to which the regulation must be identical, whether in content or in effect, is determined by the NRC. All amendments in this package are consequently mandated by the NRC, to comply with recent NRC regulation changes. The basis and rationale for these amendments are to achieve compatibility with the regulations of the Nuclear Regulatory Commission in accordance with Section 274 of the Atomic Energy Act of 1954, as amended.

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

Title 33

ENVIRONMENTAL QUALITY Part XV. Radiation Protection

Chapter 1. General Provisions

§101. Scope

* * *

[See Prior Text in A]

B. Attention is directed to the fact that state regulation of source material, by-product material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission and to parts 40 and 150 of the U.S. Nuclear Regulatory Commission's regulations (10 CFR parts 40 and 150).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1225 (August 2001).

§116. Public Participation in Licensing Actions

* * *

[See Prior Text in A-A.2]

3. Determination of Fact-Finding Hearing Necessity. Comments from the public and involved local, parish, and state agencies will be reviewed. Any person, within 20 days of date of publication of the legal notice specified in Subsection A.2 of this Section, may request the administrative authority to call for a fact-finding hearing. The administrative authority will determine the necessity for a fact-finding hearing based on comments received and other available information. The request for the hearing must be in writing and shall contain the following information:

* * *

[See Prior Text in A.3.a-4.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000), LR 27:1225 (August 2001).

Chapter 3. Licensing of Radioactive Material
Subchapter A. Exemptions

§303. Source Material

A. Any person is exempt from these regulations to the extent that such person receives, possesses, uses, owns, or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is, by weight, less than 0.05 percent of the mixture, compound, solution, or alloy.

* * *

[See Prior Text in B-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1226 (August 2001).

§304. Radioactive Material Other Than Source Material

A. Exempt Concentrations

1. Except as provided in Subsection A.2 of this Section, any person is exempt from this Chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in Schedule A of this Chapter.

* * *

[See Prior Text in A.2]

B. Exempt Quantities

1. Except as provided in Subsection B.3 and 4 of this Section, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities, none of which exceeds the applicable quantity set forth in Schedule B of this Chapter.

* * *

[See Prior Text in B.2-3]

4. No person may, for purposes of commercial distribution, transfer radioactive material in excess of the individual quantities set forth in Schedule B of this Chapter knowing, or having reason to believe, that such quantities of radioactive material will be transferred to persons exempt under Subsection B of this Section or equivalent regulations of the U.S. Nuclear Regulatory Commission or any other agreement state, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 32.18 or by the administrative authority in accordance with LAC 33:XV.328.B, which license states that the radioactive material may be transferred by the licensee to persons exempt under Subsection B of this Section or the equivalent regulations of the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing by-product material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

* * *

[See Prior Text in C-C.1.h]

i. each source contains no more than one exempt quantity set forth in Schedule B of this Chapter;

ii. each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides, and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Schedule B of this Chapter, provided that the sum of such fractions shall not exceed unity; and

iii. for purposes of this Section, 0.05 microcurie of americium-241 is considered an exempt quantity under Schedule B of this Chapter.

* * *

[See Prior Text in C.2-5.d]

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 24:2091 (November 1998); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1226 (August 2001).

§322. General Licenses: Radioactive Material Other Than Source Material

* * *

[See Prior Text in A-D.3.h.ii]

i. comply with the provisions of LAC 33:XV.485 and 486 for reporting radiation incidents, theft, or loss of licensed material. Such person shall be exempt from the other requirements of Chapters 4 and 10 of these regulations.

* * *

[See Prior Text in D.4-E.1.b]

2. Persons who own, receive, acquire, possess, or use luminous safety devices in accordance with the general license in LAC 33:XV.322.E.1 are exempt from the requirements of Chapters 4 and 10 of these regulations, except that they shall comply with the provisions of LAC 33:XV.485 and 486.

* * *

[See Prior Text in E.3-I.4]

5. Any person using radioactive material in accordance with the general license of Subsection I.1 of this Section is exempt from the requirements of Chapters 4 and 10 of these regulations with respect to radioactive material covered by that general license, except that such persons using the mock iodine-125 described in Subsection I.1 of this Section shall comply with the provisions of LAC 33:XV.431, 485, and 486.

* * *

[See Prior Text in J-J.2.b]

c. are exempt from the requirements of LAC 33:XV.Chapters 4 and 10, except that such persons shall comply with the provisions of LAC 33:XV.431, 485, and 486.

* * *

[See Prior Text in J.3-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001).

Subchapter D. Specific Licenses

§324. Filing Application for Specific Licenses

* * *

[See Prior Text in A - G]

H. Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Appendix C (Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) must contain either:

* * *

[See Prior Text in H.1 - I.2]

3. the release fraction in the respirable size range would be lower than the release fraction shown in Appendix C due to the chemical or physical form of the material;

* * *

[See Prior Text in I.4]

5. facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Appendix C;

6. operating restrictions or procedures would prevent a release fraction as large as that shown in Appendix C; or

* * *

[See Prior Text in I.7 - K.Note¹]

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 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1227 (August 2001).

§325. General Requirements for the Issuance of Specific Licenses

* * *

[See Prior Text in A-C.5.a]

b. persons authorized to possess no more than 1,000 times the quantity specified in Schedule B of this Chapter or combination of radioactive material listed therein as given in Schedule B, Note 1, of this Chapter;

* * *

[See Prior Text in C.5.c-D]

1. Each applicant for a specific license authorizing the possession and use of unsealed by-product material of half-life greater than 120 days and in quantities exceeding 10⁵ times the applicable quantities set forth in Schedule B of this Chapter shall submit a decommissioning funding plan as described in Subsection D.5 of this Section. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10⁵ is greater than one (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in Appendix A of this Chapter.

* * *

[See Prior Text in D.2-3.b]

c. Each holder of a specific license issued before the effective date of these regulations and of a type described in Subsection D.2 of this Section shall submit, on or before July 20, 1992, a certification of financial assurance for decommissioning, or a decommissioning funding plan, as described in Subsection D.5 of this Section, in accordance with the criteria set forth in this Section.

* * *

[See Prior Text in D.3.d]

4. The following table lists required amounts of financial assurance for decommissioning by quantity of material.

a. Greater than 10 ⁴ but less than or equal to 10 ⁵ times the applicable quantities of Schedule B of this Chapter in unsealed form. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by 10 ⁴ is greater than 1 but R divided by 10 ⁵ is less than or equal to 1.)	\$750,000
b. Greater than 10 ³ but less than or equal to 10 ⁴ times the applicable quantities of Schedule B of this Chapter in unsealed form. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by 10 ³ is greater than 1 but R divided by 10 ⁴ is less than or equal to 1.)	\$150,000
c. Greater than 10 ¹⁰ times the applicable quantities of Schedule B of this Chapter in sealed Sources or plated foils. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by 10 ¹⁰ is greater than 1.)	\$75,000

* * *

[See Prior Text in D.5 - D.6.a]

b. Financial Assurance Method, Insurance, or Other Guarantee Method. These methods guarantee that decommissioning costs will be paid should the licensee default. A financial assurance method may be in the form of a financial assurance bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix B of this Chapter. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this Section. Any financial assurance method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * *

[See Prior Text in D.6.b.i - 7.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), LR 26:2568 (November 2000), LR 27:1227 (August 2001).

§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material

[See Prior Text in A-E.1.b]

c. The applicant will have an adequate internal inspection system, or other management control, to ensure that license provisions, regulations, and the applicant's operating and emergency procedures are followed by radiographers and radiographers' assistants; the inspection system shall include the performance of internal inspections not to exceed three months and the retention of records of such inspections for three consecutive years.

[See Prior Text in E.1.d]

e. The applicant who desires to conduct his or her own leak tests of sealed sources or exposure devices containing depleted uranium (DU) shielding has established adequate procedures to be followed in testing for possible leakage and contamination and submits to the Office of Environmental Services, Permits Division a description of such procedures including:

[See Prior Text in E.1.e.i-f]

g. The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals as radiographers remains valid.

h. The applicant submits the qualifications of the individual(s) designated as the radiation safety officer (RSO) as described in LAC 33:XV.575.E.

i. The applicant who intends to perform calibrations of survey instruments and/or alarming ratemeters must describe methods to be used and the experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in LAC 33:XV.543 and 577.

j. The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations.

k. The applicant identifies the locations where all records required by these regulations will be maintained.

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 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 27:1228 (August 2001).

§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

[See Prior Text in A.1.a]

b. the applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in Schedule A of this Chapter, that reconcentration of the radioactive material in concentrations exceeding those in Schedule A is not

likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

[See Prior Text in A.2-M.4.g]

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 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001).

§351. Financial Assurance Arrangements

[See Prior Text in A – D.2]

3. all others except licensees exempt in accordance with LAC 33:XV.Chapter 3, Appendix A; and

[See Prior Text in D.4 – E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000), LR 27:1228 (August 2001).

Schedule A Exempt Concentrations (See notes at end of Schedule A)			
Element (atomic number)	Isotope	Column I Gas Concentrations (mCi/ml) ¹	Column II Liquid and Solid Concentration (mCi/ml) ²

[See Prior Text in Current Appendix A, Antimony (51)– Erbium (68).Er-171]			
Europium (63)	Eu-152 (T/2=9.2 hrs)		6 x 10 ⁻⁴
	Eu-155		2 x 10 ⁻³

[See Prior Text in Current Appendix A, Fluorine (9)- Beta- and/or gamma-emitting radioactive material not listed above with half-life less than 3 years.]			

Footnotes to Schedule A

¹ Values are given only for those materials normally used as gases.

² μCi/gm for solids.

Note 1. Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A, the activity stated is that of the parent isotope and takes into account the daughters.

Note 2. For purposes of LAC 33:XV.304, where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the

radioactivity concentration present in the product and the exempt radioactivity concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

Example:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} = 1$$

* * *

[See Prior Text in Current Appendix A, Notes 3-4]

Schedule B	
By-Product Material	Microcuries
Antimony 122 (Sb 122)	100
Antimony 124 (Sb 124)	10
Antimony 125 (Sb 125)	10
Arsenic 73 (As 73)	100
Arsenic 74 (As 74)	10
Arsenic 76 (As 76)	10
Arsenic 77 (As 77)	100
Barium 131 (Ba 131)	10
Barium 133 (Ba 133)	10
Barium 140 (Ba 140)	10
Bismuth 210 (Bi 210)	1
Bromine 82 (Br 82)	10
Cadmium 109 (Cd 109)	10
Cadmium 115m (Cd 115m)	10
Cadmium 115 (Cd 115)	100
Calcium 45 (Ca 45)	10
Calcium 47 (Ca 47)	10
Carbon 14 (C 14)	100
Cerium 141 (Ce 141)	100
Cerium 143 (Ce 143)	100
Cerium 144 (Ce 144)	1
Cesium 131 (Cs 131)	1,000
Cesium 134m (Cs 134m)	100
Cesium 134 (Cs 134)	1
Cesium 135 (Cs 135)	10
Cesium 136 (Cs 136)	10
Cesium 137 (Cs 137)	10
Chlorine 36 (Cl 36)	10
Chlorine 38 (Cl 38)	10
Chromium 51 (Cr 51)	1,000
Cobalt 58m (Co 58m)	10
Cobalt 58 (Co 58)	10
Cobalt 60 (Co 60)	1
Copper 64 (Cu 64)	100
Dysprosium 165 (Dy 165)	10
Dysprosium 166 (Dy 166)	100
Erbium 169 (Er 169)	100
Erbium 171 (Er 171)	100
Europium 152 9.2 h (Eu 152 9.2 h)	100
Europium 152 13 yr (Eu 152 13 yr)	1
Europium 154 (Eu 154)	1
Europium 155 (Eu 155)	10
Fluorine 18 (F 18)	1,000
Gadolinium 153 (Gd 153)	10
Gadolinium 159 (Gd 159)	100
Gallium 72 (Ga 72)	10

Germanium 71 (Ga 71)	100
Gold 198 (Au 198)	100
Gold 199 (Au 199)	100
Hafnium 181 (Hf 181)	10
Holmium 166 (Ho 166)	100
Hydrogen 3 (H3)	1,000
Indium 113m (In 113m)	100
Indium 114m (In 114m)	10
Indium 115m (In 115m)	100
Indium 115 (In 115)	10
Iodine 125 (I 125)	1
Iodine 126 (I 126)	1
Iodine 129 (I 129)	0,1
Iodine 131 (I 131)	1
Iodine 132 (I 132)	10
Iodine 133 (I 133)	1
Iodine 134 (I 134)	10
Iodine 135 (I 135)	10
Iridium 192 (Ir 192)	10
Iridium 194 (Ir 194)	100
Iron 55 (Fe 55)	100
Iron 59 (Fe 59)	10
Krypton 85 (Kr 85)	100
Krypton 87 (Kr 87)	10
Lanthanum 140 (La 140)	10
Lutetium 177 (Lu 177)	100
Manganese 52 (Mn 52)	10
Manganese 54 (Mn 54)	10
Manganese 56 (Mn 56)	10
Mercury 197m (Hg 197m)	100
Mercury 197 (Hg 197)	100
Mercury 203 (Hg 203)	10
Molybdenum 99 (Mo 99)	100
Neodymium 147 (Nd 147)	100
Neodymium 149 (Nd 149)	100
Nickel 59 (Ni 59)	100
Nickel 63 (Ni 63)	10
Nickel 65 (Ni 65)	100
Niobium 93m (Nb 93m)	10
Niobium 95 (Nb 95)	10
Niobium 97 (Nb 97)	10
Osmium 185 (Os 185)	10
Osmium 191m (Os 191m)	100
Osmium 191 (Os 191)	100
Osmium 193 (Os 193)	100
Palladium 103 (Pd 103)	100
Palladium 109 (Pd 109)	100
Phosphorus 32 (P 32)	10
Platinum 191 (Pt 191)	100
Platinum 193m (Pt 193m)	100
Platinum 193 (Pt 193)	100
Platinum 197m (Pt 197m)	100
Platinum 197 (Pt 197)	100
Polonium 210 (Po 210)	0,1
Potassium 42 (K 42)	10
Praseodymium 142 (Pr 142)	100
Praseodymium 143 (Pr 143)	100
Promethium 147 (Pm 147)	10
Promethium 149 (Pm 149)	10
Rhenium 186 (Re 186)	100
Rhenium 188 (Re 188)	100
Rhodium 103m (Rh 103m)	100

Rhodium 105 (Rh 105)	100
Rubidium 86 (Rb86)	10
Rubidium 87 (Rb87)	10
Ruthenium 97 (Ru 97)	100
Ruthenium 103 (Ru 103)	10
Ruthenium 105 (Ru 105)	10
Ruthenium 106 (Ru 106)	1
Samarium 151 (Sm 151)	10
Samarium 153 (Sm 153)	100
Scandium 46 (Sc 46)	10
Scandium 47 (Sc 47)	100
Scandium 48 (Sc 48)	10
Selenium 75 (Se 75)	10
Silicon 31 (Si 31)	100
Silver 105 (Ag 105)	10
Silver 110m (Ag 110m)	1
Silver 111 (Ag 111)	100
Sodium 24 (Na 24)	10
Strontium 85 (Sr 85)	10
Strontium 89 (Sr 89)	1
Strontium 90 (Sr 90)	0.1
Strontium 91 (Sr 91)	10
Strontium 92 (Sr 92)	10
Sulphur 35 (S 35)	100
Tantalum 182 (Ta 182)	10
Technetium 96 (Tc 96)	10
Technetium 97m (Tc 97m)	100
Technetium 97 (Tc 97)	100
Technetium 99m (Tc 99m)	100
Technetium 99 (Tc 99)	10
Tellurium 125 m (Te 125 m)	10
Tellurium 127m (Te 127m)	10
Tellurium 127 (Te 127)	100
Tellurium 129m (Te 129m)	10

Tellurium 129 (Te 129)	100
Tellurium 131m (Te 131m)	10
Tellurium 132 (Te 132)	10
Terbium 160 (Tb 160)	10
Thallium 200 (Tl 200)	100
Thallium 201 (Tl 201)	100
Thallium 202 (Tl 202)	100
Thallium 204 (Tl 204)	10
Thulium 170 (Tm 170)	10
Thulium 171 (Tm 171)	10
Tin 113 (Sn 113)	10
Tin 125 (Sn 125)	10
Tungsten 181 (W 181)	10
Tungsten 185 (W 185)	10
Tungsten 187 (W 187)	100
Vanadium 48 (V 48)	10
Xenon 131m (Xe 131m)	1,000
Xenon 133 (Xe 133)	100
Xenon 135 (Xe 135)	100
Ytterbium 175 (Yb 175)	100
Yttrium 90 (Y 90)	10
Yttrium 91 (Y91)	10
Yttrium 92 (Y92)	100
Yttrium 93 (Y93)	100
Zinc 65 (Zn 65)	10
Zinc 69m (Zn 69m)	100
Zinc 69 (Zn 69)	1,000
Zirconium 93 (Zr 93)	10
Zirconium 95 (Zr 95)	10
Zirconium 97 (Zr 97)	10
Any by-product material not listed above other than alpha-emitting by-product materials	0.1

Appendix A Financial Assurance Arrangements Recommended Amounts for Mitigation, Liability, and Decommissioning			
By Title	Clean up	Third Party and/or Off-Site Damages	Decommissioning
A. Licensees 1. Manufacturing & Distribution 2. Radiography 3. Gauges 4. Well Logging 5. Nuclear Medicine 6. Rad. Therp. 7. Acad. 8. R & D 9. Instru. Calib. 10. Irradiators 11. Ind. other than gauges 12. Consultants 13. General Lic. 14. Others not listed in category A	As determined by the chosen method	As determined by the chosen method	For Category A as a whole by quantity of material (Q): 1. $Q > 10^{10}$ x Schedule B, Chapter 3, as sealed sources = \$75,000. 2. $(10^4 \times \text{Schedule B, Chapter 3, unsealed sources}) = Q > (10^3 \times \text{Schedule B, Chapter 3, unsealed sources})$, or 10-100 mCi source materials, dispersible form = \$150,000. 3. $(10^5 \times \text{Schedule B, Chapter 3, unsealed sources}) = Q > (10^4 \times \text{Schedule B, Chapter 3, unsealed sources}) = \$750,000.$

<p>B. Low Quantity</p> <ol style="list-style-type: none"> 1. In Vitro 2. Gas Chromatograph 3. Greater than or Equal to 100 x to 1000 x Exempt Quantity 4. Unsealed, discrete alpha emitters, 10µCi total 5. Check sources of sufficient quantity to require leak testing 	<p>As determined by the chosen method</p>	<p>As determined by the chosen method</p>	<p>NA for this category.</p>
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Chapter 4. Standards for Protection Against Radiation

Subchapter G. Precautionary Procedures

§453. Labeling Containers and Radiation Machines

A. The licensee or registrant shall ensure that each container of licensed or registered source of radiation bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES [or 'NAME OF COMPANY']" or "DANGER, RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES [or 'NAME OF COMPANY']". The label shall also provide information such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment, to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

* * *

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1231 (August 2001).

Subchapter J. Reports

§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Constraints or Limits

* * *

[See Prior Text in A-B.1.b]

c. the cause of the elevated exposures, dose rates, or concentrations;

d. corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints, generally applicable environmental standards, and associated license or registration conditions; and

e. information required by LAC 33:XV.547.E if the overexposure involves failure of safety components of radiography equipment.

* * *

[See Prior Text in B.2-C]

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HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), LR 26:2771 (December 2000), LR 27:1231 (August 2001).

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

§503. Definitions

As used in this Chapter, the following definitions apply:

Annual Refresher Safety Training Ca review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, new or revised regulations, and accidents or errors that have been observed, and should also provide opportunities for employees to ask safety questions.

Associated Equipment Equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures, that drives, guides, or comes in contact with the source [e.g., guide tube, control tube, control (drive) cable, removable source stop, "J" tube, and collimator when it is used as an exposure head].

* * *

[See Prior Text]

Certifying Entity Ca independent certifying organization meeting the requirements in 10 CFR 34 appendix A, or an agreement state meeting the requirements in 10 CFR 34 appendix A, parts II and III.

* * *

[See Prior Text]

Control (Drive) Cable Ca the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

Control Drive Mechanism Ca device that enables the source assembly to be moved to and from the exposure device.

Control Tube Ca protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

* * *

[See Prior Text]

Exposure Head Ca device that locates the gamma radiography sealed source in the selected working position. (An exposure head is also known as a source stop.)

Field Station Ca facility where licensed material may be stored or used and from which equipment is dispatched.

Guide Tube (Projection Sheath) Ca flexible or rigid tube (i.e., "J" tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the

connections necessary for attachment to the exposure device and to the exposure head.

Hands-On Experience Experience in all of those areas considered to be directly involved in the radiography process.

Independent Certifying Organization Can independent organization that meets all of the criteria of Appendix A of this Chapter.

* * *

[See Prior Text]

Lay-Barge Radiography Industrial radiography performed on any water vessel used for laying pipe.

* * *

[See Prior Text]

Offshore Platform Radiography Industrial radiography conducted from a platform over a body of water.

* * *

[See Prior Text]

Practical Examination Ca demonstration through practical application of the safety rules and principles in industrial radiography, including use of all appropriate equipment and procedures.

Radiation Safety Officer for Industrial Radiography Can individual with the responsibility for the overall radiation safety program on behalf of the licensee and who meets the requirements of LAC 33:XV.573.E.

* * *

[See Prior Text]

Radiographic Exposure Device Can x-ray tube or any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed, from a shielded to unshielded position for purposes of making a radiographic exposure.

Radiographic Operations Call activities associated with the presence of radioactive sources in a radiographic exposure device during use of the device or transport (except when being transported by a common or contract transport), to include surveys to confirm the adequacy of boundaries, setting up equipment, and any activity inside restricted area boundaries.

* * *

[See Prior Text]

S-Tube Ca tube through which the radioactive source travels when inside a radiographic exposure device.

* * *

[See Prior Text]

Source Assembly Can assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

* * *

[See Prior Text]

Underwater Radiography Industrial radiography performed when the radiographic exposure device and/or related equipment are beneath the surface of the water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office Louisiana Register Vol. 27, No. 08 August 20, 2001

of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 26:2772 (December 2000), LR 27:1231 (August 2001).

§505. Form of Records

A. Each record required by this Chapter must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001).

§506-539. Reserved

Subchapter A. Equipment Control

§540. Limits on Levels of Radiation for Radiographic Source Changers and Storage Containers

A. The maximum exposure rate limits for storage containers and source changers are 2 millisieverts (200 millirem) per hour at any exterior surface and 0.1 millisieverts (10 millirem) per hour at 1 meter from any exterior surface with the sealed source in the shielded position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001).

§541. Locking of Sources of Radiation

A. The maximum exposure rate limits for storage containers and source changers are 2 millisieverts (200 millirem) per hour at any exterior surface and 0.1 millisieverts (10 millirem) per hour at 1 meter from any exterior surface with the sealed source in the shielded position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001).

§542. Storage and Transportation Precautions

A. Locked radiographic exposure devices, source changers, storage containers, and radiation machines shall be physically secured to prevent tampering or removal by unauthorized personnel. The licensee shall store radioactive material in a manner that will minimize danger from explosion or fire.

B. The licensee may not use a source changer or a container to store radioactive material unless the source changer or container has securely attached to it a durable,

legible, and clearly visible label as specified in LAC 33:XV.453. Radiographic exposure devices, source changers, or transport containers that contain radioactive material shall not be stored in residential locations. This requirement does not apply to storage of radioactive material in a vehicle in transit for use at temporary job sites, if the licensee complies with Subsection C of this Section, and if the vehicle does not constitute a permanent storage location as described in Subsection D of this Section.

C. If a vehicle is to be used for storage of radioactive material, a vehicle survey shall be performed after securing radioactive material in the vehicle and before transport to ensure that radiation levels do not exceed the limits specified in LAC 33:XV.421.A at the exterior surface of the vehicle.

1. The licensee shall lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

2. The licensee may not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied by appropriate shipping papers in accordance with LAC 33:XV.Chapter 15.

* * *

[See Prior Text in D-D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001).

§543. Radiation Survey Instruments

A. The licensee or registrant shall maintain sufficient calibrated and operable radiation survey instruments at each location where radioactive material is present to make physical radiation surveys as required by this Chapter and LAC 33:XV.430. Instrumentation required by this Section shall have a range such that 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour can be measured.

* * *

[See Prior Text in B-B.2]

3. at two points located approximately **a** and **b** of full-scale on each scale for linear scale instruments; at midrange of each decade, and at two points of at least one decade for logarithmic scale instruments; and at three points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour for digital instruments.

C. Records of these calibrations shall be maintained for three years after the calibration date for inspection by the department.

D. Each radiation survey instrument shall be checked with a radiation source at the beginning of each day of use and at the beginning of each work shift to ensure it is operating properly. Records of the checks shall be maintained for three years. If equipment problems are found, the equipment must be removed from service until repaired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 27:1233 (August 2001).

§544. Leak Testing, Repair, Tagging, Opening, Modification, Replacement, and Records of Receipt and Transfer of Sealed Sources

* * *

[See Prior Text in A-B]

C. The leak test shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of removable contamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed source storage position, or other appropriate measuring point, by a procedure which has been approved in accordance with LAC 33:XV.326.E.1.e. Records of leak test results shall be kept in units of microcuries (becquerels) and maintained for inspection by the department for three years.

* * *

[See Prior Text in D-E]

F. Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 0.005 microcuries (185 Bq) of radioactive material on the test sample and must be performed by a person specifically authorized by the administrative authority, U.S. Nuclear Regulatory Commission, or any other agreement state to perform the analysis. Should such testing reveal the presence of 0.005 microcuries (185 Bq) or more of removable DU contamination, the exposure device must be removed from use until an evaluation of the wear on the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while in storage and not in use. Before using or transferring such a device, however, the device must be tested for DU contamination if the interval of storage exceeded 12 months. A record of the DU leak test must be made in accordance with Subsection C of this Section.

G. Each licensee or registrant shall maintain records showing the receipts and transfers of sealed sources and devices using DU for shielding and retain each record for inspection by the department for three years. These records must include the date, the name of the individual making the record, radionuclide, number of becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1233 (August 2001).

§545. Quarterly Inventory

A. Each licensee shall conduct a quarterly physical inventory to account for all sealed sources and licensed devices received or possessed under his or her license,

including devices containing depleted uranium. The records of the inventories shall be maintained for inspection by the department for at least three consecutive years from the date of the inventory and shall include the quantities and kinds of radioactive material, the location of sealed sources and/or devices, the date of the inventory, the name of individual(s) performing the inventory, the manufacturer, the model number, and the serial number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1233 (August 2001).

§546. Utilization Logs

A. Each licensee or registrant shall maintain current logs, which shall be kept available for inspection by the department for three consecutive years from the date of the recorded event, showing for each source of radiation the following information:

1. a unique identification describing the make, model, and serial number of each radiation machine, each radiographic exposure device, each transport or storage container in which the sealed source is located, and each sealed source;

2. the identity and signature of the radiographer to whom the source is assigned;

* * *

[See Prior Text in A.3-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1234 (August 2001).

§547. Inspection and Maintenance of Radiographic Exposure Devices and Storage Containers

A. The licensee or registrant shall perform visual and operability checks on radiation machines, radiographic exposure devices, transport and storage containers, source changers, and associated equipment prior to each day's use, or work shift, to ensure that:

1. the equipment is in good condition;
2. the sources are adequately shielded; and
3. required labeling is present.

B. Each licensee or registrant shall have written procedures for and perform inspections at intervals not to exceed three months, or before first use thereafter, and routine maintenance of radiation machines, radiographic exposure devices, source changers, storage containers, and associated equipment to ensure proper functioning of components important to safety. All appropriate parts shall be maintained in accordance with manufacturer's specifications. The licensee's inspection and maintenance program must include procedures to ensure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

C. Records of inspection and maintenance conducted in accordance with Subsections A and B of this Section shall be maintained for inspection by the department for three consecutive years from the date of the recorded event. The record of inspection must include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was done. If any inspection conducted in accordance with Subsections A and B of this Section reveals damage to components critical to radiation safety, the device shall be removed from service and labeled as defective until repairs have been made.

* * *

[See Prior Text in D-D.3]

E. The licensee or registrant shall include the following information in each report required by Subsection D of this Section and in each report of overexposure submitted under LAC 33:XV.487 that involves failure of safety components of radiography equipment:

* * *

[See Prior Text in E.1-7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1234 (August 2001).

§548. Permanent Radiographic Installations

* * *

[See Prior Text in A-A.1]

2. the control device or alarm system as described in LAC 33:XV.436.A and B shall be tested for proper operation at the beginning of each day of equipment use. If a control device or alarm system is operating improperly, it shall be immediately labeled as defective and repaired before industrial radiographic operations are resumed. Records of these tests shall be maintained for inspection by the department for three consecutive years from the date of the event or until disposition is authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1234 (August 2001).

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§573. Conducting Industrial Radiographic Operations

A. Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has, at a minimum, met the requirements of Subsection E of this Section. The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

B. All radiographic operations conducted at locations of use authorized on the license must be conducted in a permanent radiographic installation, unless specifically authorized by the department.

C. A licensee may conduct lay-barge, offshore platform, or underwater radiography only if procedures have been approved by the department, the Nuclear Regulatory Commission, or another agreement state.

D. At temporary job sites each licensee or registrant shall provide, as a minimum, two-person crews. Such crews shall consist of at least two qualified radiographers, an approved instructor directly supervising a qualified radiographer trainee, or an approved instructor supervising a radiographer assistant.

E. A radiation safety officer (RSO) shall be designated for every industrial radiography license and certificate of registration, or license condition specifying such, issued by the department. The RSO's qualifications shall include:

1. possession of a high school diploma or certificate of high school equivalency based on the GED test;
2. completion of the training and testing requirements of LAC 33:XV.575; and
3. two years of documented radiation protection experience, including knowledge of industrial radiographic operations, with at least 40 hours of active participation in industrial radiographic operations.

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 27:1234 (August 2001).

§575. Training and Testing

* * *

[See Prior Text in A-A.6]

B. Each licensee or registrant shall maintain, for inspection by the department, until disposition is authorized by the department, the following records for each radiographer and radiographer trainee:

1. records of training and certification. The records must include radiographer certification documents and verification of certification status, copies of written tests, dates and results of oral tests and field examinations, and the names of individuals conducting and receiving the oral and field examinations; and

2. records of annual refresher safety training and semiannual inspections of job performance. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any noncompliance observed by the radiation safety officer or designee.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001).

§576. Operating and Emergency Procedures

A. The licensee's or registrant's operating and emergency procedures shall include instructions in at least the following:

* * *

[See Prior Text in A.1-4]

5. personnel monitoring and the use of personnel monitoring equipment, including steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off scale or an alarm ratemeter sounds unexpectedly;

* * *

[See Prior Text in A.6-8]

9. maintenance of records;

10. the daily inspection, maintenance, and operability checks of radiographic exposure devices, radiation machines, associated equipment, survey meters, and personnel monitoring devices; and

11. source recovery procedure if licensee will perform source recoveries.

B. Each licensee shall maintain a copy of current operating and emergency procedures until the department terminates the license. Superseded material must be retained for three years after the change is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1235 (August 2001).**

§577. Personnel Monitoring Control

A. No licensee or registrant shall permit an individual to act as a radiographer, instructor, or radiographer trainee unless, at all times during radiographic operations, each such individual wears a direct-reading pocket dosimeter, an alarm ratemeter, and either a film badge, an optically-stimulated luminescence dosimeter (OSL), or a thermoluminescent dosimeter (TLD), except that for permanent radiography facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarming ratemeter is not required.

B. Pocket dosimeters shall have a range of zero to at least 2 millisieverts (200 millirems) and shall be recharged at least daily or at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters. Pocket dosimeters, or electronic personal dosimeters, shall be checked for correct response to radiation at periods not to exceed one year. Acceptable dosimeters shall read within ± 20 percent of the true radiation exposure. Records of positive dosimeter response shall be maintained for three years by the licensee or registrant for department inspection.

C. Each film badge, TLD, or OSL shall be assigned to and worn by only one individual. Film badges must be replaced at periods not to exceed one month. After replacement, each film badge, OSL, or TLD must be processed as soon as possible.

D. Direct reading dosimeters, such as electronic personal dosimeters or pocket dosimeters, shall be read and exposures recorded at least daily with use.

E. If an individual's pocket dosimeter is discharged beyond its range (i.e., goes "off-scale"), or an individual's electronic pocket dosimeter reads greater than 2 millisieverts (200 millirems) and the possibility of radiation exposure cannot be ruled out as the cause, industrial radiographic operations by that individual shall cease and the individual's film badge, OSL, or TLD shall be processed immediately. The individual shall not return to work with sources of radiation until a determination of the radiation exposure has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination must be recorded and maintained indefinitely or until the department authorizes their disposition.

F. Records of the pocket dosimeter readings shall be maintained for inspection by the department for three consecutive years. If the dosimeter readings were used to determine external radiation dose, the records shall be maintained indefinitely or until the department authorizes their disposition.

G. If a film badge, OSL, or TLD is lost or damaged, the worker shall cease work immediately until a replacement film badge, OSL, or TLD is provided and the exposure is calculated for the time period from issuance to loss or damage of the film badge, OSL, or TLD. The results of the calculated exposure and the time period for which the film badge, OSL, or TLD was lost or damaged must be recorded and maintained indefinitely or until the department authorizes their disposition.

* * *

[See Prior Text in H-H.1]

2. be set to give an alarm signal at the preset dose rate of 5 mSv/hr (500 millirems/hour);

3. require special means to change the preset alarm function; and

4. be calibrated at periods not to exceed one year for correct response to radiation: acceptable ratemeters must alarm within ± 20 percent of the true radiation dose rate. Records of calibrations will be maintained for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001).

Subchapter C. Precautionary Procedures in Radiographic Operations

§585. Security

A. During each radiographic operation, a radiographer or instructor shall maintain continuous direct, visual surveillance of the operation to protect against unauthorized entry into a radiation area or high radiation area, as defined in LAC 33:XV.Chapter 1, except:

1. where the high radiation area is equipped with a control device or alarm system as described in LAC 33:XV.436.A; or

2. where the high radiation area is locked to protect against unauthorized or accidental entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1236 (August 2001).

§587. Radiation Surveys and Survey Records

* * *

[See Prior Text in A]

B. A physical radiation survey shall be made after each radiographic exposure utilizing radiation machines or sealed sources to determine that the machine is "off" or that the sealed source has been returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment. The entire circumference or perimeter of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall also include the entire length of the guide tube.

C. A physical radiation survey shall be made to determine that each sealed source is in its shielded position any time the source is exchanged and prior to securing the radiographic exposure device or storage container as specified in LAC 33:XV.541.

* * *

[See Prior Text in D]

E. Records shall be kept of the surveys required by Subsections C and D of this Section. Such records shall be maintained for inspection by the department for three consecutive years after completion of the survey. If the survey has been used to determine an individual's exposure, the records of the survey shall be maintained until the department authorizes their disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1236 (August 2001).

§588. Documents and Records Required at Temporary Job Sites and Applicable Field Stations

A. Each licensee or registrant conducting industrial radiography at a temporary job site or applicable field station shall have the following documents and records available at that job site or field station for inspection by the department:

* * *

[See Prior Text in A.1-4]

5. dosimeter records, from daily pocket dosimeters and/or electronic personal dosimeters, for the period of operation at the site as required by LAC 33:XV.577;

6. the latest instrument calibration and leak test records for specific devices and sealed sources in use at the site as required by LAC 33:XV.543 and 544. Acceptable records include tags or labels that are affixed to the device or survey meter;

7. a copy of the written confirmation letter issued by the department granting radiographer trainee status to any radiographer trainee performing industrial radiography at the temporary job site;

8. records of equipment problems identified in daily checks of equipment as required in LAC 33:XV.547;
9. evidence of the latest calibration of alarming ratemeters and operability checks of dosimeters as required by LAC 33:XV.577;
10. the shipping papers for the transportation of radioactive materials as required by LAC 33:XV.1502; and
11. when operating under reciprocity in accordance with LAC 33:XV.390, a copy of the applicable state license or registration or Nuclear Regulatory Commission license authorizing the use of sources of radiation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2772 (December 2000), LR 27:1236 (August 2001).

§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography

[See Prior Text in A-C]

D. No individual other than a radiographer, a radiographer assistant, or a radiographer trainee who is under the personal supervision of a radiographer instructor shall manipulate controls or operate equipment used in industrial radiographic operations. The radiographer's assistant or radiographer trainee shall also be under the personal supervision of a radiographer when using radiographic exposure devices, associated equipment, or a sealed source or while conducting radiation surveys required by LAC 33:XV.587 to determine that the sealed source has returned to its shielded position or the radiation machine is off after an exposure. The personal supervision must include:

1. the radiographer's physical presence at the site where the sources of radiation are being used;
2. the availability of the radiographer to give immediate assistance if required; and
3. the radiographer's direct observation of the assistant's performance of the operations referred to in this Section.

[See Prior Text in E-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1237 (August 2001).

Appendix B C Radiographer Certification

A. Requirements For Certification Programs. All certification programs must:

1. require applicants for certification to:
 - a. receive training in the topics set forth in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission regulations; and
 - b. satisfactorily complete a written examination covering these topics;

2. require applicants for certification to provide documentation that demonstrates that the applicant has:

- a. received training in the topics set forth in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission regulations;
- b. satisfactorily completed a minimum period of on-the-job training as specified in LAC 33:XV.575; and
- c. received verification by a state licensee or registrant or a Nuclear Regulatory Commission licensee that the applicant has demonstrated the capability of independently working as a radiographer;
3. include procedures to ensure that all examination questions are protected from disclosure;
4. include procedures for denying an application and revoking, suspending, and reinstating a certification;
5. provide a certification period of not less than three years nor more than five years;
6. include procedures for renewing certifications and, if the procedures allow renewal without examination, require evidence of full-time employment and annual refresher training; and
7. provide a timely response to inquiries, by telephone or letter, from members of the public about an individual's certification status.

B. Requirements For Written Examinations. All examinations must:

1. be designed to test an individual's knowledge and understanding of the topics listed in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission requirements;
2. be written in a multiple-choice format; and
3. have test items drawn from a question bank containing psychometrically valid questions based on the material in Appendix A of this Chapter.

Chapter 6. X-rays in the Healing Arts
§606. Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, or Computed Tomography X-Ray Systems

[See Prior Text in A-B.6.b]

- i. used continuously for more than one week in the same location, e.g., a room or suite, shall meet the requirements of Subsection B.6.a of this Section; and

[See Prior Text in B.6.b.ii]

7. Operator Protection for Veterinary Systems and Panoramic Dental Systems. All stationary, mobile, or portable X-ray systems used for veterinary work or panoramic dental systems shall be provided with either a 6.5 foot (2 meters) high protective barrier for operator protection during exposures, or shall be provided with means to allow the operator to be at least 12 feet (3.7 meters) from the tube housing assembly during exposures.

[See Prior Text in C-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2586 (November 2000), LR 27:1237 (August 2001).

Chapter 7. Use of Radionuclides in the Healing Arts
§728. Decay-in-Storage

A. A licensee shall hold radioactive material for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of LAC 33:XV.460 of these regulations if the licensee:

* * *

[See Prior Text in A.1-B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1238 (August 2001).

§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits For Imaging and Localization Studies

* * *

[See Prior Text in A-F2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:1238 (August 2001).

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter E. Records, Reports, Tests, and Inspections

§1333. Maintenance of Records, Reports, and Transfers

* * *

[See Prior Text in A-C]

D. Notwithstanding Subsections A-C of this Section, copies of records of the location and the quantity of radioactive wastes contained in the disposal site shall be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the parish in which the facility is located, the parish zoning board or land development and planning agency, the state governor, and other state, local, and federal governmental agencies as designated by the department at the time of license termination.

* * *

[See Prior Text in E-J.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2598 (November 2000), LR 27:1238 (August 2001).

Chapter 15. Transportation of Radioactive Material
§1502. Scope

* * *

[See Prior Text in A-C.4]

D. If U.S. DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. DOT specified in Subsection A of this Section to the same extent as if the shipment or transportation were subject to U.S. DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the U.S. DOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000), LR 26:2771 (December 2000), LR 27:1238 (August 2001).

James H. Brent, Ph.D.
Assistant Secretary

0108#025

RULE

Department of Health and Hospitals
Board of Veterinary Medicine

Consent Forms
(LAC 46:LXXXV.1039)

The Board of Veterinary Medicine has amended LAC 46:LXXXV.1039 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq. The amendments to the rule are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 10. Rules of Professional Conduct

§1039. Conduct of One's Practice

A. ...

B. Prior to the commencement of general anesthesia in a non-emergency situation, a licensed veterinarian shall have the owner or duly authorized agent of the owner execute an anesthesia consent form which shall be placed in the patient's medical record. The anesthesia consent form shall be in writing and include the following:

1. the owner or duly authorized agent has the authority to execute the consent;
2. the owner or duly authorized agent authorizes the performance of professionally accepted anesthetic procedures necessary for his animal's treatment;
3. the owner or duly authorized agent authorizes the performance of such procedures as are necessary and desirable in the exercise of the veterinarian's professional judgment;
4. the owner or duly authorized agent authorizes the use of appropriate anesthetics;
5. the owner or duly authorized agent has been advised as to the nature of the procedures and the risks involved in performing anesthesia to the animal and that results cannot be guaranteed;
6. the owner or duly authorized agent has read and understands this authorization and consent; and

7. the owner or duly authorized agent signs and dates the form.

C. Subsequent to general anesthesia in an emergency situation, a licensed veterinarian shall have the owner or duly authorized agent of the owner execute an anesthesia consent form which shall comply with the requirements set forth in section 1039.B above. A documented, good faith effort by the licensed veterinarian to obtain a signed anesthesia consent form shall be made within five days after the emergency anesthesia.

D. For purposes of sections 1039.B and C, a situation is an emergency when it is necessary to save an animal's life or relieve suffering by the provision of essential services.

E. Prior to the commencement of an euthanasia procedure, a licensed veterinarian shall meet personally with the owner or duly authorized agent of the owner and have him execute a euthanasia consent form which shall be placed in the patient's medical record. The euthanasia consent form shall be in writing and include the following:

1. the owner or duly authorized agent has the authority to execute the consent;
2. the owner or duly authorized agent gives full and complete authority to euthanize and dispose of the animal in whatever manner the veterinarian deems appropriate;
3. that to the best of the owner or duly authorized agent's knowledge that animal has not bitten any person or animal during the last 15 days prior to presentation and has not been exposed to rabies;
4. that the owner or duly authorized agent understands euthanasia as personally explained by the veterinarian and gives permission to end the animal's life; and
5. the owner or duly authorized agent signs and dates the form.

F. The licensed veterinarian may address the issues of civil liability, payment arrangements and/or other issues of concern in the anesthesia consent form and/or euthanasia consent form, however, the inclusion of such issues are at the discretion of the licensed veterinarian and are not required by the board to be addressed in the forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:230 (March 1990), amended LR 27:1238 (August 2001).

Kimberly B. Barbier
Administrative Director

0108#035

RULE

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

**Adult Denture Program
Reimbursement Fee Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the

Social Security Act. This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has increased the reimbursement fees for certain designated procedure codes to the following rates.

Procedure Code	Procedure Name	New Rate
05110	Full Upper Denture	\$470.00
05120	Full Lower Denture	\$470.00
05130	Immediate Full Upper Denture	\$470.00
05140	Immediate Full Lower Denture	\$470.00
05211	Upper Acrylic Partial w/Clasp	\$425.00
05212	Lower Acrylic Partial w/Clasp	\$425.00
05750	Reline Full Upper Denture-Lab Reline	\$200.00
05751	Reline Full Lower Denture-Lab Reline	\$200.00
05760	Reline Upper Partial Denture-Lab Reline	\$175.00
05761	Reline Lower Partial Denture-Lab Reline	\$175.00

In addition, the bureau has established requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid program. Adult Denture Program providers shall process into the acrylic base of each new removable dental prosthesis, the recipient's last name and first initial, the month and year, and the Medicaid provider number. This criteria applies to the following services: full upper denture, full lower denture, immediate full upper denture, immediate full lower denture, upper acrylic partial w/clasp and lower acrylic partial w/clasp.

David W. Hood
Secretary

0108#092

RULE

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

**Disproportionate Share Hospital Payment Methodologies
Provider Based Rural Health Clinics**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the disproportionate share payments to small rural hospitals by including the uncompensated costs of health care services provided in a rural health clinic that is licensed as part of the small rural hospital in the calculation of the hospital's uncompensated costs. Qualifying hospitals must meet the qualifying criteria contained in section II. E and either section II. A, B, or C of the May 20, 1999 rule. In addition,

qualifying hospitals must meet the definition for a small rural hospital contained in III. B.1. of the March 20, 2000 rule. Qualifying hospitals must maintain a log documenting the provision of uninsured care in the rural health clinic as directed by the department. All other provisions contained in the May 20, 1999 rule shall remain in effect as previously promulgated.

The disproportionate share payments to each qualifying rural hospital shall continue to be equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the cost reporting period ended during the period April 1, 2000 through March 31, 2001, multiplied by the amount set for this pool. Payment will not exceed each qualifying hospital's actual uncompensated costs or the amount appropriated. If the cost reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

Implementation of this rule shall be subject to the approval of the Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0108#093

RULE

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

**Early Periodic Screening Diagnosis and Treatment (EPSDT)
Dental Program Reimbursement Fee Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has increased the reimbursement fees for certain designated procedure codes to the following rates.

Procedure Code	Procedure Name	New Rate
02930	Stainless Steel Crown-Primary	\$78.00
02931	Stainless Steel Crown-Permanent	\$78.00
05110	Full Upper Denture	\$470.00
05120	Full Lower Denture	\$470.00
05130	Immediate Full Upper Denture	\$470.00
05140	Immediate Full Lower Denture	\$470.00
05211	Upper Acrylic Partial w/Clasp	\$425.00
05212	Lower Acrylic Partial w/Clasp	\$425.00
05750	Reline Full Upper Denture-Lab Reline	\$200.00
05751	Reline Full Lower Denture-Lab Reline	\$200.00
05760	Reline Upper Partial Denture-Lab Reline	\$175.00
05761	Reline Lower Partial Denture-Lab Reline	\$175.00

In addition, the bureau establishes requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid program. EPSDT Dental Program providers shall process into the acrylic base of each new removable dental prosthesis, the recipient's last name and first initial, the month and year, and the Medicaid provider number. This criteria applies to the following services: full upper denture, full lower denture, immediate full upper denture, immediate full lower denture, upper acrylic partial w/clasp, lower acrylic partial w/clasp, upper cast partial/acrylic and lower cast partial/acrylic.

David W. Hood
Secretary

0108#094

RULE

**Department of Public Safety and Corrections
Board of Private Investigator Examiners**

Application (LAC 46:LVII.501)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Louisiana Department of Public Safety and Corrections, Louisiana State Board of Private Investigator Examiners has amended Part LVII of Title 46, amending Chapter 5, Section 501, to delete the requirement for a consent for service of process to be included on the application form for out of state licensees.

This rule and regulation is an amendment to the initial rules and regulations promulgated by the Louisiana State Board of Private Investigator Examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LVII. Private Investigator Examiners
Chapter 5. Application, Licensing, Training,
Registration and Fees**

§501. Application

A. The board shall issue a two-part application.

1. Part I shall be designated for investigative agencies; and
2. Part II shall be designated for individual investigators.

B. Applications shall be sent to all persons requesting application for licensing in the State of Louisiana.

C. The application shall contain the following information:

1. the minimum statutory requirements for obtaining a license in the State of Louisiana;
2. instructions explaining requirements of the application; and
3. a schedule of licensing fees for an agency and individual.

D. Information requested on the application shall include the following:

1. company, partnership or corporation history;
2. personal history;
3. marital status;
4. education;

5. military service;
6. employment history;
7. character references;
8. investigative history;
9. miscellaneous questions regarding:
 - a. involvement of overthrow by force of our government;
 - b. crimes involving moral turpitude;
 - c. felony convictions; and
 - d. any unfavorable background incidents the applicant should share with the board; and
10. notarized statement confirming the accuracy of the information contained in the application.

E. If the applicant is a sole proprietor, he must furnish a copy of his occupational license with the application.

F. Applicants must submit appropriate fees along with the application. 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.

G. No person shall make an application to the board as qualifying agent unless that person intends to maintain and does maintain supervisory position on a regular, full-time basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1333 (October 1993), amended LR 27:1240 (August 2001).

Charlene Mora
Chairman

0108#018

RULE

Department of Public Safety and Corrections Board of Private Security Examiners

Firearm Training (LAC 46:LIX.301 and 405)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary has amended the Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX.301 and 405, as follows.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. - G. ...

H. An applicant who will be registered to carry a weapon must be trained in that weapon prior to carrying such 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 training is received after 30 days, then a \$10

status change fee must be submitted in accordance with the rule for status changes.

I. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:11 (January 1989), LR 13:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001).

Chapter 4. Training

§405. Firearms Training

A. - B. ...

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 80 percent.

D. - F.4.c.ii.(b). ...

G. Semiautomatic Handgun

1. 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.

2. The 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. - H.2.d. ...

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 18:192 (February 1992), amended LR 23:588 (May 1997), LR 26:1073 (May 2000), LR 27:1241 (August 2001).

These regulations are to become effective upon publication in the *Louisiana Register*.

Wayne R. Rogillio
Executive Secretary

0108#096

RULE

Department of Revenue Office of the Secretary

File Date of Returns and Other Documents; Payment Dates (LAC 61:I.4911)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary has adopted LAC 61:I.4911, pertaining to the delivery date and timely filing of various documents including returns, reports, and other documents and the timely delivery of payments.

The Department administers a number of taxes and fees whose returns and payments are required to be filed by a prescribed date. Other documents, including reports, are also required by various statutes to be submitted to the department. Since delivery of these documents can be

accomplished by means other than the United States Postal Service, the Secretary intends these rules to provide guidelines as to what constitutes timely filed returns, reports, other documents and payments when delivered by United States Postal Service, couriers, taxpayers or their representatives or via electronic means.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4911. File Date of Returns and Other Documents; Payment Dates

A. Definitions. For the purposes of these rules, the following terms shall have the meanings ascribed to them in this section:

Courier—a messenger other than the United States Postal Service that delivers parcels, packages and the like containing returns, reports, other documents or payments.

Electronically—by computer, telephone or internet.

Postage—the amount of money paid for the delivery of a piece of mail by the United States Postal Service.

Postage Meter—the postage printing die and postage registering mechanism of a mailing machine which must meet postal service test specifications and is subject to inspection by the United States Postal Service.

Postmark—an official mark made by the United States postal service on a piece of mail to cancel the stamp and to indicate the place and date of sending.

B. File Date of a Return, Report and Other Document

1. Delivery by the United States Postal Service. A return, report or other document in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed filed on the date postmarked by the United States Postal Service. The postmark must bear a date on or before the last date prescribed for filing the return, report or other document in order to be considered timely filed. If the postmark on the envelope is not legible, the taxpayer has the burden of proving the date that the postmark was made. If the return, report or other document is sent by United States registered or certified mail, the date of registration is treated as the date of postmark. A postage meter date is considered a valid postmark date provided it does not conflict with a legible United States Postal Service postmark date. If the dates conflict, the United States Postal Service date shall override the meter date.

2. Delivery by Courier. A return, report or other document delivered by courier is deemed filed on the date it is delivered to the department's headquarters or a regional office.

3. Delivery by the Taxpayer. A return, report or other document delivered by the taxpayer or a representative of the taxpayer is deemed filed on the date it is delivered to the department's headquarters or a regional office.

4. Electronically Filed. A return, report or other document filed electronically is deemed filed on the date transmitted to the department or to a third party acting as the department's agent.

5. Electronic Payment as a Substitute. In the case where a taxpayer is allowed to and has elected to have an electronic payment represent his return, the return shall be considered filed on the date the transmitted funds are posted to the State of Louisiana's bank account.

C. Payment Dates

1. Delivery by the United States Postal Service

a. A payment made in conjunction with the filing of a tax return and submitted in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed paid on the date it is postmarked. If the postmark on the envelope is not legible, the taxpayer has the burden of proving the date that the postmark was made. If the payment is sent by United States registered or certified mail, the date of registration is treated as the date of postmark. A postage meter date is considered a valid postmark date provided it does not conflict with a legible United States Postal Service postmark date. If the dates conflict, the United States Postal Service date shall override the meter date.

b. Any payment other than that described in paragraph (C)(1)(a) above including but not limited to payments of billing notices and unidentified payments is deemed paid on the date it is delivered to the department's headquarters or a regional office.

2. Delivery by Courier. A payment delivered by courier is deemed paid on the date it is delivered to the department's headquarters or a regional office.

3. Delivery by the Taxpayer. A payment delivered by the taxpayer or a representative of the taxpayer is deemed paid on the date it is delivered to the department's headquarters or a regional office.

4. Electronic Remittance. A payment remitted electronically is deemed paid on the date the transmitted funds are posted to the State of Louisiana's bank account. A taxpayer required by the provisions of R.S. 47:1519 (B) and LAC 61:I.4910 to pay by electronic funds transfer must comply with the statutes and regulations governing electronic funds transfers, as well as written procedures prescribed by the department, in order to have the payment deemed timely paid.

5. Dishonored Payment. A payment remitted to the department that is later dishonored by the taxpayer's financial institution or the taxpayer's representative's financial institution is not deemed paid until the date the replacement funds are posted to the State of Louisiana's bank account or guaranteed money is delivered to the department's headquarters or a regional office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 27:1242 (August 2001).

Cynthia Bridges
Secretary

0108#017

RULE

**Department of Wildlife and Fisheries
Office of Management and Finance**

Recreational Electronic Licensing (LAC 76:I.327)

The Department of Wildlife and Fisheries has established criteria to deny the purchase of recreational fishing and hunting licenses for nonpayment of unpaid fines, penalties, fees and charges as follows.

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. - M. ...

N. An applicant for a hunting or a fishing license who owes civil penalties pursuant to R.S. 56:31 et seq. and R.S. 56:40 et seq., shall, after decision and after appeal delay has run, be marked in the license issuance system(s) in a manner so as to deny the purchase of hunting or fishing licenses until

all civil penalties have been paid in full. In addition, any applicant, or payee on behalf of an applicant, who has an unpaid check returned by the bank for any reason shall be marked in the license issuance system(s) in a manner to deny the purchase of hunting and fishing licenses until all such fees and NSF charges have been paid in full.

O. 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.B.(4).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998), amended by Wildlife and Fisheries Commission, LR 26:1078 (May 2000), amended by the Office of Management and Finance, LR 27:1243 (August 2001).

James H. Jenkins, Jr.
Secretary

0108#062

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Contracts for Termite Control Work (LAC 7:XXV.119)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations to include both native subterranean (reticulitermes) and Formosan (coptotermes) termites under the protection of termite contracts issued by pest control operators.

The current state standard termite contracts for post-construction (liquid ground and bait treatments) covers only the native subterranean termite. However, the termiticides and the specifications for their applications are the same for both native subterranean and Formosan termites. Allowing pest control operators to continue to exclude Formosan termites from contracts for termite control work will provide neither the pest control operator nor the customers with any significant economic benefit.

These rules comply with and are enabled by R.S. 3:3302 and R.S. 3:3306.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Family Impact Statement

The proposed amendments to rules 7:XXV.119 regarding contracts for termite control work should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

A public hearing will be held at 9:30 a.m. on September 28, 2001 at the Louisiana Department of Agriculture and Forestry building located at 5825 Florida Boulevard, Baton Rouge, LA 70806. Interested persons will be afforded an opportunity to submit oral or written comments at this time. No preamble regarding these rules is necessary.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Contracts for Termite Control Work

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation costs or savings to state or local governmental units. This is to insure that in the future the homes and commercial structures that will be covered with termite contracts be protected against both native subterranean (reticulitermes) and Formosan (coptotermes) termites.

The current state standard termite contracts for post-construction (liquid ground and bait treatments) covers only the native subterranean termite. However, the termiticides and the specifications for their applications are the same for both native subterranean and Formosan termites.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is estimated to be an economic benefit to customers who purchase termite contracts. The treatment of Formosan termites will now be included in the pest control contract. This prevents property values from declining.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is estimated to be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0108#072

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Registration of Livestock Pharmaceuticals
(LAC 7:XXIII.Chapter 1)

The Department of Agriculture and Forestry, Office of the Commissioner, proposes to amend regulations governing the registration of pharmaceuticals administered to livestock in accordance with R.S. 3:3(B), R.S. 3:3203(A) and the Administrative Procedure Act.

The Louisiana Legislature, by Act 33 of the 2000 Regular Session, enacted R.S. 47:301(16)(f) to remove pharmaceuticals administered to livestock from the definition of "tangible personal property." The purpose of the legislation is to exclude pharmaceuticals administered to livestock from sales and use taxes in Louisiana. In Act 33, the legislature required such pharmaceuticals to be registered

with the Louisiana Department of Agriculture and Forestry. These regulations are intended to provide for the registration of such pharmaceuticals.

These rules comply with and are enabled by R.S. 3:3(B) and R.S. 3:3203(A).

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter A. Authority

§101. Authority

A. Under the authority of the Louisiana Pesticide Law, R.S. 3:3201, et seq., and in accordance with the provisions in R.S. 49:950, et seq., the Commissioner of Agriculture and Forestry adopts the following regulations.

B. The Commissioner of Agriculture and Forestry, in accordance with R.S. 3:3203(E) has determined that pharmaceuticals administered to livestock used for agriculture purposes are pesticides. Pharmaceuticals administered to livestock used for agricultural purposes shall be registered with the department in accordance with the Louisiana Pesticide Law and the rules and regulations found in this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 27:

Subchapter B. Definitions

§103. Definitions

* * *

Livestock Used for Agricultural Purposes—any animal bred, kept, maintained, raised or used for profit or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. This definition includes cattle, buffalo, bison, oxen and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, pet turtles and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites and other farm-raised exotic animals; chickens, turkeys and other poultry; any animals placed under the jurisdiction of the commissioner or the department; and any hybrid, mixture or mutation of any type of animal if used for an agricultural purpose. However, dogs and cats shall not be considered livestock under these regulations.

Pharmaceuticals—any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of plant or animal pests, diseases, viruses, bacteria or other microorganisms in or on livestock and any substance other than food intended to affect the structure or any function of the body of any livestock.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202 and 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 27:

Subchapter D. Registration of Pesticides

§111. Registration Required

A. No pesticide, including pharmaceuticals administered to livestock used for agricultural purposes, shall be sold, offered for sale, or distributed in this state without being registered by the manufacturer annually with the department. This registration shall expire on December 31 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 27:

§115. Standard Registrations

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

ii. the percentage of the active ingredients in the pesticide unless the proportion of the active ingredients are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of active ingredients may be reported in that manner;

iii. the percentage of the inert ingredients in the pesticide unless the proportion of the active ingredients in the pesticide are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of inert ingredients may be reported in that manner;

iv. - d. ...

e. the method for laboratory analysis if the pesticide is a pharmaceutical administered to livestock used for agricultural purposes;

f. such other information as the commissioner may require.

A.2. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 23:192 (February 1997), LR 23:853 (July 1997), LR 27:

§117. Special Registrations

A. - 3.c.iii. ...

d. Pharmaceuticals in Custom Blended Feed(s) Exemption. It shall not be necessary to register a feed as a pesticide that contains a pharmaceutical ingredient if the following conditions are met.

i. The feed blend is prepared to the order of the customer and is not held in inventory by the blender.

ii. The blend is to be used on the customer's property or fed to the customer's livestock.

iii. The pharmaceutical(s) used in the blend bears end-use labeling directions that do not prohibit use of the product in such a blend.

iv. The blend is prepared from a pharmaceutical registered with the department.

v. The blend is delivered to the end-user along with a copy of the end-use labeling of each pharmaceutical used in the blend and a statement specifying the composition of mixture.

e. Commercial feeds, as defined in R. S. 3: 1891(1), which are manufactured or distributed as feed to livestock and which contain pharmaceutical ingredients are hereby declared to be pharmaceuticals administered to livestock.

Each such commercial feed shall be registered with the department in accordance with the provisions of these regulations except for the following commercial feeds.

i. Commercial feeds registered with the department in accordance with the requirements of the Commercial Feeds Law found at Chapter 14 of Title 3 of the Louisiana Revised Statutes of 1950, (R. S. 3: 1891-1907) as long as those registration and inspection fees and tonnage reports are current.

ii. Commercial feeds that have been manufactured or produced by any person for the purpose of feeding his own livestock.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), amended LR 27:

Family Impact Statement

The proposed amendments to LAC 7:XXIII.Chapter 1 governing the registration of pharmaceuticals administered to livestock should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on September 28, 2001 at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these rules is necessary.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Registration of Livestock Pharmaceuticals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be a \$200,000 implementation cost to state or local governmental units. Implementation of a registration and monitoring program for pharmaceuticals administered to livestock are to be incorporated into existing registration and monitoring programs. Act 33 of the 2000 regular session provides a sales tax exemption for pharmaceuticals administered to livestock. The Act also requires pharmaceuticals to be registered with the Louisiana Department of Agriculture and Forestry. A fee of \$300 per registered pharmaceutical will be imposed pursuant to the department's existing authority under R.S. 3:3221.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be approximately \$200,000 in fees collected per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated economic benefits to purchasers of pharmaceuticals administered to livestock, which includes horses, beef cattle, dairy cattle and poultry is approximately \$200,000 per year. The estimated economic cost to manufacturers of pharmaceuticals administered to livestock is approximately \$200,000 per year. The department cannot determine whether some portion of the fee imposed on these pharmaceuticals will ultimately be passed on to purchasers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0108#073

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Hiring Rate; Rewards and Recognition

The State Civil Service Commission will hold a public hearing on Wednesday, September 12, 2001 to consider the adoption of Civil Service Rule 6.16.3 and the amendment of Civil Service Rules 6.5(g), 6.16.1 and 6.16.2. The hearing will begin at 9 a.m. and will be held in the Department of State Civil Service 2nd floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

Consideration will be given to the following:

Amend Rule 6.5(g)

6.5. Hiring Rate

Pay upon employment shall be at the minimum of the range established for the grade of the job to which the position is allocated except:

(a). – (f). ...

(g). Extraordinary Qualifications/Credentials

Subject to provisions of Rule 6.29, if an applicant who is eligible for appointment under provisions of Chapters 7 and 8 of the Rules possesses extraordinary or superior qualifications/credentials above and beyond the minimum qualifications/credentials, the appointing authority may, at his own discretion, pay the employee upon hiring at a rate above the minimum provided that such superior qualifications/credentials are verified and documented as job related, the rate does not exceed the third quartile of the range for the affected job, the rate is implemented in accordance with written policies and procedures established by the department; such policies shall be posted in a manner which assures their availability to all employees.

The salaries of all current probational and permanent employees who occupy positions in affected jobs and possess the same or equivalent qualifications/credentials may be adjusted up to but not to exceed the amount of the percent difference between the special hiring rate and the regular hiring rate provided that the qualifications/credentials are also verified and documented as job related and that the rate is implemented in accordance

with written policies and procedures established by the department; such policies shall be posted in a manner which assures their availability to all employees.

(f). ...

Explanation

Changing the hiring rate for candidates who possess superior qualifications/credentials from the midpoint of range to third quartile of the range will allow appointing authorities greater latitude in hiring exceptional candidates at or near market rates.

Amend Rule 6.16.1

6.16.1 Rewards and Recognition

Subject to the provisions of Rule 6.29, an appointing authority may, at his discretion, implement a program of rewards and recognition for individual employees or for employee groups for significant achievement. Such rewards may be either monetary or non-monetary. If monetary, such rewards shall not exceed a total of 7 percent of the employees base salary within a fiscal year. Monetary rewards shall not be a part of the employee's base pay, but rather shall be a lump sum reward. Such reward and recognition programs shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include the public posting of all reward recipients.

Explanation

This rule is designed to provide appointing authorities with the flexibility to design and implement reward and recognition programs for employees or employee groups for significant achievement in a manner that is pertinent to the organization. Raising the amount of monetary awards for employees or employee groups who have significant achievements from 4 percent to 7 percent of the employee's salary will allow appointing authorities greater latitude in rewarding employees. As always, all other state laws, rules and regulations apply.

Amend Rule 6.16.2

6.16.2 Optional Pay Adjustments

Subject to the provisions of Rule 6.29, an appointing authority may, at his own discretion, grant individual pay adjustments to permanent employees to provide for the retention of an employee whose loss would be detrimental to the State service or to adjust pay differentials between comparable employees or to compensate employees for performing additional duties or to recruit employees into positions for which recruiting is difficult. Such increases shall not exceed 10 percent in a July 1 to June 30 period for an individual employee and shall not duplicate payment received pursuant to other pay rules. Such increases may be made as either a lump sum payment or a permanent addition to the employee's base salary. Such optional pay adjustments shall be implemented in accordance with written policies and procedures established by each department. Such policies must receive advance approval from the Civil

Service Commission and shall be posted in a manner that assures their availability to all employees. Such policies shall also include a public posting of all recipients.

Explanation

This rule will allow appointing authorities the flexibility to adapt to changing employment conditions once a policy has been approved. Agencies have presented problems for which they desire an immediate response in order to properly compensate their employees. Raising the rate of optional payment from 7 percent to 10 percent will allow appointing authorities greater latitude in solving problems without direct Civil Service Commission involvement.

Adopt Rule 6.16.3

6.16.3. Gainsharing

This rule establishes an incentive program designed to encourage increased efficiency in governmental operations. Subject to the provisions of Rule 6.29, and with certification by the Commissioner of Administration and/or the appropriate authority that efficiencies have been realized, an appointing authority may, at his discretion, implement a gainsharing program which distributes money resulting from those efficiencies to individual classified employees or classified employee groups. Employees must have been employed in the agency, program, or activity during the period when efficiencies were realized and at the time that the reward is distributed. Monetary rewards shall not be a part of the classified employee's base pay, but rather shall be a lump sum reward not to exceed twenty percent of their annual base salary. Such rewards shall not be considered in the determination of retirement benefits. Each appointing authority's gainsharing award plan must be approved by the Civil Service Commission prior to distribution. Such award plans shall be posted in a manner that assures their availability to all employees. Such award plans shall also include the public posting of all reward recipients and the amount each received.

Explanation

This rule will allow appointing authorities to reward employees who participate in, or develop, activities which result in savings or increased efficiencies for the State. This will provide an incentive for management and employees to work harder in developing new processes and innovations. Employees will benefit directly in the form of a monetary reward, agencies will benefit from better processes, new efficiencies and a motivated workforce, and taxpayers will benefit from improved services and agency savings.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at P.O. Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify the Civil Service Department prior to the meeting.

Allen H. Reynolds
Director

0108#051

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Workforce Development and Training
Program—Sponsoring Entity
(LAC 13:III.303, 309, 315, and 317)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development, Office of the Secretary, hereby proposes to amend the rules and regulations for the Louisiana Workforce Development and Training Program. The intent is to amend the rules in order to remove the Sponsoring Entity. These rules will prescribe in accordance with LAC 13:III.Chapter 3.

The action is deemed necessary to remove the inherent conflict of having the sponsoring entity monitor the contract. The sponsoring entity needs to work closely with these companies to enhance job opportunities in their respective areas.

This Rule complies with and is enabled by R.S. 51:2331.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

§303. Definitions

Applicant—the entity requesting and receiving a training award from DED under this program.

Award—funding approved under this program for eligible training activities.

Contract—a legally enforceable agreement between DED and the applicant.

DED—Louisiana Department of Economic Development.

Program—the Workforce Development and Training Program.

Secretary—the secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:242 (February 1999), LR 27:

§309. Eligibility

A. An eligible applicant is an employer that seeks customized training services to provide training in a particular industry.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 27:

§315. Submission and Review Procedure

A. - A.4. ...

B. A cost-benefit analysis tailored to the applicant's request shall be conducted by DED to determine the net benefit to the state of the proposed training award.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 27:

§317. General Award Provisions

A. Award Agreement

1. A contract will be executed between DED and the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, the time required for job training and job creation.

2. DED will disburse funds to the applicant in a manner determined by DED.

3. DED will oversee the progress of the training and reimburse the applicant from cost reports submitted by the applicant on a form provided by DED. DED, at its discretion, may request the company to submit additional information.

A.4. - B.4.c. ...

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of required documentation to DED by applicant. Funds will not be available for reimbursement until a training agreement between the applicant and DED has been executed. Only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement. However, reimbursements can only be provided upon final execution of a contract with the Department of Economic Development.

2. ...

D. Compliance Requirements

1. Applicants shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company knowingly files a false statement in its application or in a progress report, the company shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 27:

Family Impact Statement

The proposed amendments to Rules 13:III. Chapter 3 regarding the elimination of Sponsoring Entities with regard to the Workforce Development and Training Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Cathy Breaux through the close of business on September 30, 2001, at PO Box 94185, Baton Rouge, LA 70804-9185 or 101 France Street, Baton Rouge, Louisiana 70802.

Don J. Hutchinson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Workforce Development and Training
Program—Sponsoring Entity**

- 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 rule. These changes will not increase the workload for agency personnel.
- 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 associated with this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action may benefit businesses by removing the requirement that a sponsoring entity must be a part of the contract.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment as a result of the proposed rule.

Don J. Hutchinson
Secretary
0108#006

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The proposed changes more clearly explain and refine existing policy as follows. The proposed policy provides the conceptual framework of Louisiana's District Accountability System, the proposed indicators and performance labels for district accountability.

Title 28 EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§ 901. School Approval Standards and Regulations**

Bulletin 741
* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260 (June 2000), LR 27:

The Louisiana School and District Accountability System
District Accountability

1.007.00 Every school district shall participate in a district accountability system based on the performance of schools as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

Indicators for District Accountability

1.007.01 There shall be two statistics reported for each school district for District Accountability:

- a District Performance Score (DPS); and
- a District Responsibility Index (DRI).

District Performance Score (DPS)
A District Performance Score (DPS) shall be the average of School Performance Scores (SPS) of all schools in a district.

District Responsibility Index (DRI)
 A District Responsibility Index (DRI) shall be the weighted average of six indicators¹ with each indicator to be expressed as an index. A score of 100 = good and a score of 150 = excellent.
 The proposed indicators include;

1. The percentage of students who pass the summer retest of LEAP 21 after failing the previous spring;
2. The increase in the Standard Scores (SS) on LEAP 21 from spring to summer for students who scored *Unsatisfactory* during the spring administration;
3. The change in the failure rate from one year to the next;
4. The change in School Performance Scores (SPS) for all schools;
5. The percentage of a district's certified teachers that are assigned to its low-performing schools (below the appropriate state average) (See Standard 2.006.07.); and
6. The total percentage of teachers in the district that are certified.

Note: The weights assigned to each indicator will be announced at a later date.
¹ Indicators for school finance and graduation rate of high school students may be phased into the calculation of the District Responsibility Index at a later date.

Performance Labels

1.007.02 A district shall not receive a label for its District Performance Score. A label shall be reported for its District Responsibility Index.

District Responsibility Index	Label
130.0 or more	Excellent
110.0 – 129.9	Very Good
90.0 – 109.9	Good
70.0 – 89.9	Fair
50.0 – 69.9	Poor
0.0 – 49.9	Unsatisfactory

Corrective Actions

1.007.03 The Louisiana Department of Education shall report district scores and labels on every school district. Consequences imposed on a district shall be based on its District Responsibility Index (DRI). Any district receiving a performance label of unsatisfactory for its DRI shall become subject to an operational audit. If a district scores unsatisfactory again within two years, the SBESE shall have the authority to act on the audit findings, including the withholding of funds to which the district might otherwise be entitled.

Interested persons may submit written comments until 4:30 p.m., October 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
 Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Policy for Louisiana's Public Education Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 There are no estimated implementation costs to state governmental units. The proposed policy provides the conceptual framework of Louisiana's District Accountability System, the proposed indicators and Performance Labels for District Accountability.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 There will be no effect on revenue collections by state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 There will be no effect on competition and employment.

Marlyn J. Langley
 Deputy Superintendent
 Management and Finance
 0108#004

H. Gordon Monk
 Staff Director
 Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The proposed changes more clearly explain and refine the existing policy as it pertains to the calculation of two State averages to be used for performance labels and corrective actions, the phase-in of CRT data for combination schools, the averaging of scores for 9-12 schools to determine if a school has met its growth target in 2003, the calculation of an adjusted growth target for 9-12 schools for cycle 1, the exclusion of out-of-level testing data in the SPS calculation, the inclusion of an audit/investigation process for schools showing statistically anomalous growth in one or more indicator used in the calculation of its SPS, and the process for schools entering/progressing into corrective actions.

**Title 28
 EDUCATION**

**Part I. Board of Elementary and Secondary Education
 Chapter 9. Bulletins, Regulations, and State Plans
 Subchapter A. Bulletins and Regulations
 § 901. School Approval Standards and Regulations**

Bulletin 741
 * * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR

26:635 (April 2000), LR 26:1260 (June, 2000), LR 26:1260-1261 (June 2000), LR 27:

The Louisiana School And District Accountability System
School Performance Scores

2.006.03

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

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The Growth SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data.

During the fall of 2001 for K-8 schools, each school shall receive two School Performance Scores as follows:

- a Growth SPS will be calculated using 2001 English language arts/Math LEAP 21 test scores, 2001 Iowa test scores, and 2000 attendance and dropout data.
- a new Baseline SPS will be calculated using the average of the 1999-2000 and 2000-2001 English language arts/Math/Science/Social Studies LEAP 21 test scores, the average of the 1999-2000 and 2000-2001 Iowa test scores and the average of the 1999 and 2000 attendance and dropout data.

The Growth SPS shall be used to determine Growth Labels and to calculate rewards. The new Baseline shall be used to determine Performance Labels and to calculate the next cycle's Growth Target. The higher SPS (Growth or Baseline) shall be used to determine movement in Corrective Actions. (See Standard 2.006.09)

Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- an average of the most recent two year's test data, and
- attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two year's data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

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

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

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

Formula for Calculating an SPS [K-6]			
The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, $[(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1$			
<i>Indicator</i>	<i>Index Value</i>	<i>Weight</i>	<i>Indicator Score</i>
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

Criterion-Referenced Tests (CRT) Index Calculations [K-8]	
A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

- Formula for Calculating a CRT Index for a School [K-8]**
1. Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.
 2. Divide by the total number of students eligible to be tested times the number of content area tests.
 3. Zero shall be the lowest CRT Index score reported for accountability calculations.

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

- retained on the 8th grade campus;
- must retake all parts of the 8th Grade LEAP 21

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

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

Norm-Referenced Tests (NRT) Index Calculations [K-8]
 For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

Attendance Index Calculations [K-8]
 An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

NRT Goals and Equivalent Standard Scores					
Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *					
Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

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

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

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]
 Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:

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

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

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

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

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

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

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

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

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

Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25
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Lowest Dropout Index Score
Zero shall be the lowest Dropout Index score reported for accountability calculations.

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0 – 100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a

given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

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

Transition Years [9-12] To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests and the graduation requirement, the Department shall use the following indicators:							
Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03 ¹	3	3		3*	3*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	3	3	3	3*	3*
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	3	3	3	3*	3*
*Indicates use of prior year data for these indexes. ¹ The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.							

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

Formula for Calculating an SPS – Accountability Cycle 1 (2001) for 9-12 and Combination Schools. During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is: SPS = (.60 * Grade 10 CRT Adjusted Achievement Index) + (.30 * NRT Adjusted Achievement Index) + (.05 * Dropout Index) + (.05 Attendance Index) All intermediate results and the final result shall be rounded to the nearest tenth. The following is an example of how this calculation shall be made: [(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4

SPS	69.0		
Formula for Calculating an SPS – Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools. During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is: SPS = (.30 * Grade 10 CRT Adjusted Achievement Index) + (.30 * Grade 11 CRT Adjusted Achievement Index) + (.30 * NRT Index) + (.05 * Dropout Index) + (.05 Attendance Index) In this example, [(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8
CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS	67.2		

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

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index 9}^{\text{th}} \text{ grade} = (2.083 * \text{SS}) - 447.8$$

$$\text{SS} = (\text{Index 9}^{\text{th}} \text{ grade} + 447.8) / 2.083$$

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

- retained and placed on the high school campus;
- must take the 9th grade NRT; and
- must retake only the part of the 8th grade LEAP 21 they originally failed (English language arts or mathematics).

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- Iowa Out-of-Level or,
- Louisiana Alternate Assessment

Criterion-Referenced Tests (CRT) Index Calculations [9-12]

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

Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

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

- Sum the number of points earned by all students. For the NRT, there shall be one score for each student: the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
- Divide by the total number of students eligible to be tested times the number of content area tests. This calculation provides the raw achievement index for the grade.
- Multiply the raw index by the product of the non-dropout rates from the previous year. for that grade and for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index.
- Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

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

$$\text{NRT Adjusted Achievement Index} = \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 10)} = \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07) * (1 - \text{DO Gr 10} + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 11)} = \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07) * (1 - \text{DO Gr 10} + .07) * (1 - \text{DO Gr 11} + .07)$$

Example 1 – Grade 9:

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

Example 2 – Grade 10:

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

Attendance Index Calculations for Grades 9-12

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

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

Attendance Index Formula for Grades 9-12

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

$$\text{Indicator (ATT 9-12)} = (16.667 * \text{ATT}) - 1450.0$$

Example:

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

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

Dropout Index Calculations for Grades 9-12

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

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

Dropout Index Formula for Grades 9-12

$$\text{Dropout Index} = 187.5 - (12.5 * \text{dropout rate})$$

Example:

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

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

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

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the State's 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the Growth Target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100-\text{SPS})/(N+5))] \text{ or } 5 \text{ points, whichever is greater}$$

where
 PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, speech or language impaired, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1-PropSE. *PropRE* is the proportion of students not in special education.

PropLEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who:

- 1) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or
- 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or
- 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

The maximum amount of growth that a school shall be required to attain is 20 points. The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:

$$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * (150 - \text{SPS})/(N + 5)] + [\text{PropLEP} * ((150-\text{SPS})/(N+5))] \text{, or } 5 \text{ points, whichever is greater.}$$

For cycle 1 only (2003), the Louisiana Department of Education shall calculate a growth target for 9-12 schools using the following formula:

$$.75 * [[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100-\text{SPS})/(N+5))].$$

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100-\text{SPS})/(N+5))], \text{ or } 5 \text{ points, whichever is greater.}$$

Growth Targets for New or Reconfigured Schools

Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be $(100-50)/2 = 25$. Under this rule, the school's Growth Target shall be 20, the maximum.

Growth Targets for Reconstituted Schools

Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution.

For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's Growth Target for the first cycle after reconstitution shall be $10 \text{ points } [(100-50)/5]$.

Performance Labels

2.006.07 A Performance Label shall be given to a school that qualifies, in addition to the Growth Label.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

The Louisiana Department of Education shall calculate two state averages. A state average shall be calculated for K-8 schools and a state average shall be calculated for 9-12, K-12 and combination schools.

Performance Labels

A school with a SPS of 30.0 or below shall be labeled *Academically Unacceptable*. This school immediately enters Corrective Actions.

A school with a SPS of 30.1 - state average shall be labeled *Academically Below the State Average*.

A school with a SPS of state average - 99.9 shall be labeled *Academically Above the State Average*.

*The state average is recalculated every growth cycle.

**A school with a SPS of 100.0 - 124.9 shall be labeled a *School of Academic Achievement*.

**A school with a SPS of 125.0 - 149.9 shall be labeled a *School of Academic Distinction*.
 **A school with a SPS of 150.0 or above shall be labeled a *School of Academic Excellence*.
 **During the first ten years, a school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth. (See Standard 2.006.06.) This school shall continue to meet or exceed its Growth Target to obtain a "positive" growth label, recognition, and possible rewards.

Rewards/Recognition

2.006.08 A school shall receive recognition and monetary awards (as appropriated by the Legislature) when it meets or surpasses its Growth Target and when it shows growth in the performance of students who are classified as high poverty and special education students.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Target.

The SBESE shall establish an audit and investigation process for schools showing statistically anomalous growth in one or more indicators used in the calculation of its SPS. The audit and investigation shall be conducted by the Louisiana Department of Education, the local school system as provided by the SBESE or the legislative auditor as provided by law. The findings of the audit and investigation shall be reported to the SBESE, the local district and local school. If the findings verify erroneous or anomalous data, the SBESE shall have the authority to withhold rewards. The SBESE also shall require local school systems to repay any rewards a school received for which it was ineligible as determined by the audit and investigation findings.

Corrective Actions

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

- A school has a SPS \leq 30.0 points.
- A school has a SPS \geq 30.1 and $<$ the applicable State Average (See Standard 2.006.07), and a Growth Label of Minimal Academic Growth, No Growth, or School in Decline.
- A school has a SPS $<$ 100.0 and \geq the applicable State Average (See Standard 2.006.07), and a Growth Label of No Growth or School in Decline.

A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

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

Requirements for Schools in Corrective Actions I

1. A Revised or New School Improvement Plan

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

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

2. Assurance pages

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

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

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

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

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

A school shall enter Corrective Actions Level II if all of the following apply:

- It was in Corrective Actions I the previous cycle, and
- Its Growth Label is Minimal Academic Growth, No Growth, or School in Decline, and
- Its Growth Target for the next cycle is \geq 15.0 points.

Corrective Actions Level II: All schools in Corrective Actions II must adhere to the requirements of schools in Corrective Actions I; however, Corrective Actions II schools must submit to the Louisiana Department of Education a *Monthly Monitoring of the Implementation of the School Improvement Plan*.

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the State. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. If a school is labeled as Academically Unacceptable, parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy Standard #2.006.11.)

A school shall enter Corrective Actions Level III if all of the following apply:

- It was in Corrective Actions Level II the previous cycle, and
- Its Growth Label is Minimal Academic Growth, No Growth, or School in Decline, and
- Its Growth Target for the next cycle is ≥ 15.0 points.

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy, Standard #2.006.11.) A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to the SBESE for approval. If a Corrective Actions Level III school has achieved at least 40% of its Growth Target or five points, whichever is greater, during its first year, then that school may proceed to a second year in Level III. If such minimum growth is not achieved during the first year of Level III, but if the SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If the SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose its State approval and all State funds.

Any reconstituted School's SPS and Growth Target shall be recalculated utilizing data from the end of its previous year. The SBESE shall monitor the implementation of the Reconstitution Plan.

All schools that have a:

- SPS ≥ 100.0 are exempt from Corrective Actions during the first ten years.
- SPS ≥ 30.0 that meet or exceed its Growth Target shall exit Corrective Actions.
- SPS ≥ 30.0 shall enter/progress in Corrective Actions.

All schools must enter/re-enter Corrective Actions at Level I.

For 2001 only, K-8 schools shall receive a Growth SPS and a New Baseline SPS. The higher of the two shall be used to determine movement in Corrective Actions. However, schools with a new Baseline SPS [30.0 shall remain/progress in Corrective Actions.

Corrective Actions Summary Chart

School Level Tasks

Level I

- 1) Utilize the State's diagnostic process or another process meeting State approval to identify needs; and
- 2) Work with District Assistance Team to develop/implement a consolidated improvement plan, including an integrated budget; the process must include a) opportunities for significant parent and

community involvement, b) public hearings, and c) at least two-thirds teacher approval.

Level II

- 1) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 2) Distinguished Educator works with principals to develop capacity for change.

Level III

- 1) Distinguished Educator continues to assist with improvement efforts and work with the advisory District Assistance Team and other district personnel to design that school's Reconstitution Plan or No State Approval/No State Funding.
- 2) If Reconstitution Plan is approved by the SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets.
- 3) If Reconstitution Plan is not approved, no State approval/no State funding.

District Level Tasks

Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) Reassign or remove school personnel as necessary as allowed by law; and
- 4) Ensure Academically Unacceptable schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) Continue to help schools through the use of District Assistance Teams;
- 2) Hold public hearing and respond to Distinguished Educator's written recommendations;
- 3) Response in writing submitted to SBESE by local boards no later than 45 days subsequent to receiving the Distinguished Educator's report. Failure to respond to these recommendations will result in the school receiving unapproved status and being ineligible to receive federal subgrantee assistance funds until such response is received;
- 4) Reassign or remove personnel as necessary as allowed by law; and
- 5) Authorize parents of students attending Academically Unacceptable Schools to send their children to other public schools

Level III

- 1) Continue to help schools through the use of District Assistance Teams;
- 2) Authorize parents of students attending Academically Unacceptable Schools to send their children to other public schools;
- 3) Design Reconstitution Plan; and
- 4) At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40% of the Growth Target or five points, whichever is greater; b) the district shall develop Reconstitution Plan to be approved by the SBESE; and c) the SBESE shall grant non-school approval status.

Reconstitution or No State Approval/Funding

- 1) If Reconstitution Plan is approved by the SBESE, provide implementation support.
- 2) If the Reconstitution Plan is not approved, no State approval/no State funding.

State Level Tasks

Level I

- 1) Provide diagnostic process for schools;
- 2) Provide training for District Assistance Teams;
- 3) For some Academically Unacceptable Schools only, the SBESE shall assign advisory Distinguished Educators to schools; and
- 4) Work to secure new funding and/or redirect existing

	resources to help schools implement their improvement plans.
Level II	
1)	Assign advisory Distinguished Educator to schools; and
2)	Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans.
Level III	
1)	Assign advisory Distinguished Educator to schools for one additional year to assist in the development and design of the Reconstitution Plan;
2)	At end of Year 1, the SBESE shall approve or disapprove Reconstitution Plans. If the SBESE approves the Reconstitution Plan, the Distinguished Educator is assigned an additional year to support and assist with monitoring the implementation of the Reconstitution Plan for schools that fail to make adequate growth;
3)	If a school achieves the required amount of growth during its first year in Level III Corrective Action and proceeds to a second year in Level III, the Distinguished Educator will be assigned to the school for that additional year to support and assist the school in its continued improvements efforts; and
4)	Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans.
Reconstitution or No State Approval/No Funding	
1)	If Reconstitution Plan is approved by the SBESE, a) monitor implementation of reconstitution plan; and b) provide additional state improvement funds; and
2)	If Reconstitution Plan is not approved, no State approval/State funding.

Inclusion of Students with Disabilities

2.006.18 All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT shall be included in the calculation of the SPS. Most students with disabilities shall take the CRT and the NRT with accommodations, if required by their Individualized Education Program (IEP). A small percentage of students with very significant disabilities, limited to 1.5% per grade level per school district, shall participate in an alternate assessment, as required by their IEP.

Local Education Agencies (LEAs) have the option to allow or disallow out-of-level testing. The LEA shall determine the percentage of students who can test out-of-level, not to exceed a total of 4% of students at any grade level per school district. This 4% includes those students participating in alternate assessment. The parent must agree with out-of-level assessment through written parental approval, via the IEP. There shall be an appeals method in place to make decisions on exceptions when the district's 4% cap has been exceeded.

A student participating in out-of-level testing must test three or more grade levels below in either English/Language Arts or Mathematics. If a student does not test three or more grade levels below in at least one of these subject areas, he/she will receive a "0" for that student's growth in the calculation of the school's SPS.

For students with disabilities who test out-of-level, Iowa (ITBS) standard scores from two consecutive years shall be compared in the following manner to determine student performance in calculating the SPS:

Less than 5 standard score points of progress	0 points (Unsatisfactory)
5-9 standard score points of progress	50 points

	(Approaching Basic)
10-14 standard score points of progress	100 points (Basic)
15-19 standard score points of progress	150 points (Proficient)
20 + standard score points of progress	200 points (Advanced)

Appeals Process for Exceeding the Established Caps for Out-of-Level Alternate Assessment of Students with Disabilities	
I.	School districts that either
A)	exceed a total of 4% but less than 5% of the total district population at any grade level participating in out-of-level testing and alternate assessment,
	AND/OR
B)	exceed a total of 1.5% but less than 2% of the total district population at any grade level participating in alternate assessment
	must submit the following to the Department of Education (DOE) for review and approval:
	1) a justification documenting the reasons for exceeding the cap(s), and
	2) a corrective action plan to
	<ul style="list-style-type: none"> • increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable; • decrease participation in alternate assessment to a maximum of 1.5% of the total district population at the grade level(s) where the cap was exceeded.
II.	School districts that either
C)	exceed a total of 5% or more of the total district population at any grade level participating in out-of-level testing and alternate assessment,
	AND/OR
D)	exceed a total of 2% of the total district population at any grade level participating in alternate assessment
	must submit the following to the Department of Education for review and approval:
	3) a justification documenting the reasons for exceeding the cap(s), and
	4) a corrective action plan to
	<ul style="list-style-type: none"> • increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable; • decrease participation in alternate assessment to a maximum of 1.5% of the total district population at the grade level(s) where the cap was exceeded.
	The school district will receive an onsite investigation by a Department of Education team; and following the investigation, the DOE team will meet with the school district's superintendent and appropriate staff to address the findings and revise, if necessary, the submitted corrective action plan.
	III. The DOE will report to the SBESE on each appeal.

Interested persons may submit written comments until 4:30 p.m., October 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Policy for Louisiana's Public Education Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state governmental units. The proposed changes more clearly explain and refine the existing policy as it pertains to the

calculation of two State averages to be used for Performance Labels and Corrective Actions, the phase-in of CRT data for combination schools, the averaging of scores for 9-12 schools to determine if a school has met its growth target in 2003, the calculation of an adjusted growth target for 9-12 schools for cycle 1, the exclusion of out-of-level testing data in the SPS calculation, the inclusion of an audit/investigation process for schools showing statistically anomalous growth in one or more indicator used in the calculation of its SPS, and the process for schools entering/progressing into Corrective Actions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0108#005

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Add-On Certification (LAC 28:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.

A teacher who currently holds a standard teaching certificate can add an endorsement for a certification area.

For add-on certification in academic areas that have been identified as a teaching focus in grades 4-8 or in grades 7-12, either of two routes can be used:

1. earning a passing score on the identified content specialty area exam of the PRAXIS, or
2. successfully completing the recommended 19 credit hours in the specific academic area.

Add-on certification in academic areas through the PRAXIS exams would be limited to those Grades 4-8 and Grades 7-12 academic certification areas for which a content specialty exam has been validated in Louisiana and for which a cutoff score has been established.

Title 28 EDUCATION

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

Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 26:459 (March 2000), LR 26:635 (April 2000), LR 26:638 (April 2000), LR 27:

Add-on Certification Policy Academic Teaching Focus Areas Grades 4-8 and 7-12

A teacher must currently hold a standard teaching certificate in order to add an endorsement for a certification area.

Add-on certification in academic areas that have been identified as a teaching focus in grades 4-8 or in grades 7-12 can be granted through either:

1. earning a passing score on the identified content specialty area exam of the PRAXIS; or
2. successfully completing the recommended 19 credit hours in the specific academic area.

Immediate implementation of add-on certification in academic areas through the PRAXIS exams would be available only in those Grades 4-8 and Grades 7-12 academic certification areas for which a content specialty exam has been validated in Louisiana and for which a cutoff score has been established.

Interested persons may submit comments until 4:30 p.m., October 9, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Add-On Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Those who are certified will be directly affected by the new add-on policy. The policy permits adding a certification endorsement to an existing certificate in academic areas that have been identified as a teaching focus in grades 4-8 or in grades 7-12 through either of two routes: (1) earning a passing score on the identified content specialty area exam of the PRAXIS, or (2) earning 19 credit hours in the area of endorsement.

This should result in less time and expense for teachers who seek add-on certification through the PRAXIS examination route. Benefits to students accrue in that there will be more certified personnel available to teach in the academic focus areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0108#003

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A.

The new licensure structure embodies most of the licensing categories currently available in Louisiana, under new license titles and renewal guidelines. Non-certified personnel will now be limited to a total of three years in Louisiana schools before full licensure is required, except in the cases of what is currently the Emergency Permit and Temporary Employment Permit. Both of these categories of temporary licensure are subsumed under the title "Temporary Employment Permit," and conditions for issuance remain the same.

The new Practitioner Teacher License is an addition to the current temporary licenses available in Louisiana and applies to individuals who pursue alternate certification through the fast-track Practitioner Teacher Program. The Out-of-State Provisional Certificate changes from a one-year to a three-year license, extending the amount of time that out-of-state certified teachers can teach in Louisiana while meeting all requirements for full Louisiana licensure.

In the new licensure structure, the current standard certificates labeled "Type C," "Type B," and "Type A" change to "Level 1," "Level 2," and "Level 3" certificates, to mirror licensure terminology in other states. The current Type C initial certificate may be extended every three years, whereas the proposed Level 1 certificate is non-renewable. While the current Types B and A certificates are lifetime certificates for continuous service, the new Levels 2 and 3 certificates must be renewed every five years. Required for renewal are 150 clock hours of professional development. Requirements for reinstatement of a lapsed Level 2 or 3 certificate remain the same as for a lapsed Type B or A certificate. If one of these certificates lapses for disuse or for failure to complete the required professional development hours, the individual is required to earn six semester hours of credit in order to reinstate the certificate.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

Types of Teaching Authorizations and Certifications

Non-Standard Temporary Authorizations to Teach			
Temporary Authority to Teach (A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification unless the Louisiana Department of Education designates the certification area as one that requires extensive hours for completion.)	Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions. Districts must provide a signed affidavit by local superintendent that the position could not be filled by a certified teacher.	CONDITIONS	REQUIREMENTS TO RENEW TEMPORARY AUTHORIZATION TO TEACH AND/OR MOVE TO ANOTHER CERTIFICATION LEVEL
		a. Individual who graduates from teacher preparation program but does not pass PRAXIS	Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.
		b. Individual who holds a minimum of a baccalaureate degree from a regionally- accredited institution and who applies for admission to a Practitioner Teacher Program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.	Teacher must take a minimum of six credit hours per year in the subject area(s) that they are attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program.
		c. Individual who holds a minimum of a baccalaureate degree from a regionally- accredited institution and who is hired after the start of the Practitioner Teacher Program	Teacher must apply for admission to a Practitioner Teacher Program and pass the appropriate PRAXIS examinations required for admission to the program.
Practitioner Teacher License	The District and the Practitioner Teacher Program provider must identify the individual as a practitioner	a. Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program, which necessitates meeting all Practitioner Teacher Program requirements,	A practitioner teacher must remain enrolled in the Practitioner Teacher Program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. Program requirements must be completed within the

	teacher. One-year license that can be held a maximum of three years, renewable annually.	including baccalaureate degree, stipulated GPA, and passing scores on the PRAXIS PPST and content area exam.	three-year maximum that license can be held. A practitioner teacher may complete all requirements of the practitioner program in fewer than three years. Once a practitioner teacher completes ALL requirements of the Practitioner Teacher Program, he may apply for a Level 1 Professional Certificate.
Out-of-Field Authorization to Teach	District submits application to LDE; renewable annually for maximum of three years. Superintendent of employing district must provide a signed statement that certifies that "there is no regularly certified, competent and suitable person available for that position" and that the applicant is the best qualified person available for the position.	a. Individual holds a Louisiana teaching certificate, but is teaching outside of the certified area.	Teacher must obtain a prescription/outline of course work required for add-on certification in the area of teaching assignment. Teacher must take a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching. The other option for a teacher teaching out-of-field would be for the teacher to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area. District must support teacher's efforts in this area.
Temporary Employment Permit	Under condition (a) the district submits application to LDE; renewable annually. Under condition (b) the Individual submits application to LDE; renewable annually.	a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within ten percent of the composite score required for passage of all exams. (Currently classified as EP)	Superintendent and President of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam. While employed on an emergency teaching permit, employment period does not count toward tenure.
		b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Currently classified as TEP)	Temporary Employment Permits are issued at the request of individuals. All application materials required for issuance of a regular certificate must be submitted to LDE with the application for issuance of a TEP. An individual can be re-issued a permit three times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. Beginning with the fifth year, additional documentation must be submitted by the employing district.
Standard Teaching Certifications			
Out of State Provisional Certificate	Individual submits application to LDE; valid for three years, non-renewable.	a. A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.	Teacher must take and pass the appropriate PRAXIS examinations -OR- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, secures recommendation of the local superintendent of the employing school system for continued employment.
Professional Level Certificates (effective for all new certificates issued after July 1, 2002)			
Level 1 Professional Certificate	Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate. -OR- Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate. -OR- Teacher must meet the requirements of an out-of-state certified teacher.		A teacher may hold a Level 1 certificate for a total of three years in his/her career.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:

Interested persons may submit comments until 4:30 p.m., October 9, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Proposed Types of Teaching Authorizations and Certifications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Those who are currently teaching but are uncertified will be directly affected by the new licensure structure, which limits

the amount of time an uncertified individual can teach in Louisiana schools to three years. This should result in fewer years spent seeking certification. Certified personnel will be affected by the requirement that permanent certificates must be renewed every five years, and by the addition of a professional development requirement (150 clock hours) for certificate renewal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley Robert E. Hosse
Deputy Superintendent General Government Staff Director
Management and Finance Legislative Fiscal Office
0108#49

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Standards for Educational Interpreters and/or Transliterateors (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed standards provide for two new ancillary certificates: an Ancillary Provisional Certificate for Educational Interpreter/Transliterateor and an Ancillary Qualified Certificate for Educational Interpreter/Transliterateor. The Ancillary Provisional Certificate is for newly hired

individuals. It is valid for one year, renewable once, and will be issued to persons who met a skilled based criteria. The Ancillary Qualified Certificate will have endorsement areas of Elementary and/or Secondary indicating competency in one of the following modes of sign language systems: ASL, MCE, SEEI or Cued Speech. These standards will impact any newly hired individual who functions in the capacity of an educational interpreter/transliterater for students who are deaf or hard-of-hearing. The standards also provide a measure to be used for hiring individuals. Continuing Education Units, included in the standards, are required.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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Standards for Educational Interpreters and/or Transliterators. Educational interpreters/transliterators are individuals who facilitate communication within an instructional environment via an enhanced visual and/or tactile mode between and among deaf/hard of hearing and hearing individuals in situations in which those individuals are unable to communicate with one another using a speech and hearing mode. (*Bulletin 1706, Regulations for Implementations of the Children with Exceptionalities Act*). Each educational interpreter and/or transliterater qualifying under this plan shall meet conditions as outlined in this document and have at least a standard high school diploma or a General Equivalency Diploma (GED).

Ancillary Provisional Certificate

This certificate is valid for one year, renewable once, and will be issued to persons who meet the following criteria for certification as an educational interpreter or transliterater:

1. completed an accredited interpreter preparation program with at least a certificate of completion, or higher; or
2. certified as a cued speech transliterater certification from a national or state recognized organization or certifying body; or
3. certified as a sign language interpreter/transliterater by a national or state recognized organization or certifying body; or

4. possess advanced level or higher as measured by the Sign Language Proficiency Interview (SLPI) or Sign Communication Proficiency Interview (SCPI); or possess Mini-Proficient level as measured on the Basic Cued Speech Proficiency Rating Test (BCSPR c1983, Beaupre); or

5. possess specified level or higher as measured on the Pre-Hiring Assessment of the Educational Interpreter Performance Assessment (EIPA).

Grandfather Permit

1. All individuals who are providing interpreting/transliterating services in an educational setting at the time of implementation shall be granted a permit by the Division of Special Populations upon recommendation of the employing authority.

2. This permit shall be valid as long as the individual maintains continuous employment at the time of implementation of these standards.

Qualified Ancillary Certificate

This certificate is valid for five years, renewable, and will be issued to persons who meet the criteria for certification as an educational interpreter or transliterater. The criteria for certification are listed below:

1. candidate who satisfies conditions for ancillary provisional certificate and meets the criteria for this certificate; or
2. candidate who possesses a grandfather permit and
 - a. shows documentation of professional development of at least 20 hours;
 - b. passes the standardized video tape version of the Educational Interpreter Performance Assessment at a level of 3.0; or
 - c. passes the Basic Cued Speech Proficiency Rating Test at a level of Proficient.

Renewal Guidelines for Ancillary Qualified Certificate

1. A qualified ancillary certificate may be renewed every five years if the applicant satisfactorily completes 6 semester credits or the equivalent of continuing professional education (90 contact hours) during the 5 years immediately preceding his/her application.

2. The 6 semester credits or 90 equivalent clock hours shall be directly and substantively related to one or more of the permits or certificates held by the applicant or to the applicant's professional competency.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:

Interested persons may submit comments until 4:30 p.m., October 9, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel—Standards for Educational Interpreters and/or Transliterators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the department approximately \$700 (printing and postage to disseminate the policy.)

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy sets standards for an individual who will be hired as an educational interpreter and/or transliterater. The cost to take the required certification is \$225. The cost for the hiring screening assessment is \$75.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no effect on the private sector. The proposed action will have no impact on the approximately 140 currently employed educational interpreters. Should these individuals wish to be certified, they would need to have completed the contract hours or CEUs required plus pass the skill assessment. Individuals who wish to be employed will need to pass a skills-based assessment that establishes minimal competency. This assessment assures that LEAs can hire the individual who is most competent to perform the job of interpreting in an educational setting.

Marlyn J. Langley Robert E. Hosse
Deputy Superintendent General Government Section Director
Management and Finance Legislative Fiscal Office
0108#050

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and Nutrition Programs,
Policies of Operation (LAC 28:XLIX.Chapters 1 - 39)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revision of Bulletin 1196, Louisiana Food and Nutrition Programs, Policies of Operation. This bulletin is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. The proposed revision incorporates all federal and state policy changes made since 1995 which have already been implemented by the School Food Authorities.

**Title 28
EDUCATION**

**Part XLIX. Bulletin 1196—School Food Service
Standards and Regulations**

§101. Early History of School Food Service Europe

1. Efforts to provide nourishing meal service to school children for 200 years are well documented. As early as 1790, in Munich, Germany, a program to teach and feed needy children was established. By the early 1900s, many other European countries were providing meals to school children. In many instances, children who were able to pay were allowed to participate for a small charge. Concern about identifying needy children was evident even at this early date. For example, in 1867, France's minister of public instruction requested school officials to give special attention to the nutrition of the children, a directive that resulted in the establishment of free lunches for needy children in many schools. In Paris, school canteens supported by public funds provided free meals to children whose parents were on the Poor Board list. Participation was open to all children. Lunch tickets that did not identify those receiving free meals were used (Gunderson, 1971).

B. United States

1. School feeding programs began in the United States in 1853 and grew sporadically until the Depression years. These programs, which were originally started to provide nourishing meals to needy children, gradually included all

students who chose to eat at school. Two publications, Poverty by Robert Hunter in 1904 and The Bitter Cry of the Children by John Spargo in 1906, aided the growth of such programs by informing the public of the negative effect of hunger on the learning in school children (Gunderson, 1971).

2. Civic groups, parent-teacher organizations, groups of parents, and municipalities sponsored school feeding programs. By 1914, many large cities- such as New Orleans, Denver, Philadelphia, Washington D.C., St. Louis, Chicago and Memphis- had more than one elementary school providing food service to students (Caton, 1990, p. 28).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§103. Federal and State Legislation

A. Early Government Funding

1. During the Depression in the early 1930's, the Reconstruction Finance Corporation, the Civil Works Administration, and the Federal Emergency Relief Administration provided Federal assistance to pay labor costs in preparing and serving school meals. The number of schools receiving such funding grew rapidly during this time. Thirty-nine states were participating in these programs by 1934. This rapid expansion was in response to the high unemployment numbers as well as the increasing realization that malnourishment could negatively affect the learning process of school children.

2. The Work Projects Administration (WPA), created in 1935, assigned jobs in school lunch programs to unemployed needy women. This agency substantially increased the amount of Federal contributions to the feeding programs in schools. The quality of meal service improved because WPA officials not only developed menus, recipes, and procedure manuals, but also set standards for equipment, sanitation, and safety. This program allowed each state to supervise the various school lunch programs that were implemented using these funds.

3. In 1935, Congress passed a bill that gave 30 percent of the receipts from duties collected under the custom laws during each calendar year to be used to purchase price-depressing surplus foods for the intent of removing them from the normal channels of trade and commerce. Needy families and school lunch programs became the recipients of such commodity donations. This commodity program provided the impetus for major growth of lunch programs in school systems.

4. The National Youth Administration (NYA) was also founded in 1935 by the Federal government to provide job-training and part-time work for needy students. The NYA participants helped prepare and serve school meals and made tables, chairs, and other equipment for the lunchroom.

5. Since hunger and malnourishment were so widespread during the Depression years, some states began to fund midday meals at schools. By 1937, fifteen states had passed laws to operate school food service programs.

B. World War II.

1. The school lunch programs were greatly affected by the huge war effort. Agricultural commodities were being used to supply the U.S. Armed Forces and the Allies, with little of the food items going to the schools. Also, as the war

effort employed much of the labor being used for the WPA, the WPA ended operations in 1943. Congress, in response to this problem, amended the Agricultural Act of 1935 to give cash subsidy payments to school lunch sponsors for the purchase of food for school lunches.

C. The National School Lunch Act of 1946

1. While Congress passed several laws to fund the school lunch program further during World War II, the growth was not so rapid as desired. Many school boards hesitated to participate in the program because appropriations were made on a yearly basis.

2. The 79th Congress of 1946 passed the National School Lunch Act, which gave the school lunch program permanent status with appropriate funding. Instrumental in the passage of this law was the testimony of Major General Lewis Hershey during the Senate Education and Labor Committee's hearings in 1944. General Hershey, who was the director of the Selective Service Commission, noted during his testimony that many potential draftees into the military service were rejected because of nutrition-related health problems (School Food Service Director, 1992, p. 5).

3. This act established school food service as an integral part of the United States' educational system. The purpose was "to provide assistance to the States in the establishment, maintenance, operation, and expansion of school lunch programs, and for other purposes." Specifically, Congress declared that the objective of the National School Lunch Act was "to safeguard the health and well-being of the Nation's children -- and to encourage the domestic consumption of nutritious agricultural commodities and other food." Nutritional standards for lunches were developed and established on the basis of authoritative knowledge of food needs of school age children.

4. This act has been amended numerous times through the years. One major change occurred during the 1960's, when poverty and the feeding of needy children became a primary concern for many people. As a result of this issue, Section 11, which addressed free and reduced price meals, was added to the National School Lunch Act in 1962. Congress provided the funding for Section 11 in the fiscal year 1969.

5. In 1994, Congress passed the Healthy Meals for Americans Act, which took effect in the school year 1996-1997. This amendment to the National School Lunch Act required implementation of the Dietary Guidelines in school meals. The act also provided for improvements in the commodity program and directed the USDA to provide technical assistance and training to help improve the program. The act was executed primarily to enhance the NSLP and SBP by focusing on the nutritional quality of school food and nutrition programs.

6. In 1996, regulations in the National School Lunch Act were amended to allow use of the current traditional meal planning option or "any reasonable approach" to menu planning that would meet dietary standards and not require a nutrient analysis be conducted.

D. The Child Nutrition Act of 1966

1. Concerned with effectively meeting the nutritional needs of the Nation's children, Congress passed the Child Nutrition Act of 1966. The purpose of this legislation was to strengthen and expand food service programs for children.

2. This act and later amendments appropriated funding to states to assist them in initiating, maintaining, or expanding nonprofit Breakfast Programs in schools. The Special Milk Program was put under the Child Nutrition Act. This law also appropriated funds to establish the Nutrition Information and Education Training Program, provided for State Administrative Expenses, and assigned the United States Department of Agriculture to administer the school food service programs.

E. The Child Reauthorization Act of 1998

1. The Child Nutrition Reauthorization Act permitted reimbursement for snacks served to children through age 18, and to individuals, regardless of age, who are determined by the State agency to be mentally or physically disabled. With increasing crime statistics, especially among juvenile offenders, this act was created in order to assist schools and public and private nonprofit organized programs of care that include education or enrichment activities known to help reduce or prevent children's involvement in juvenile crime or other high risk behavior.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§105. Louisiana School Food Service

A. The Early Years

1. School food service began in Louisiana as early as 1903. By 1914, New Orleans was one of the large cities in the United States providing meal service to elementary schools (Caton, 1990, p. 28). The WPA aided the growth of the school food service program in Louisiana in the 1930's. According to a survey of Louisiana high schools conducted by Marian Coyne Agate, a large increase in high school food service units was noted from 1935 to 1940 (Agate, 1940, p. 29, 39).

2. There was great variation in sponsorship of the school food service programs during the 1930's. The sponsors were local school boards, Parent-Teachers Associations, Mothers' Clubs, Home Economics Departments, local civic clubs such as the Rotary Club and the American Legion, the Federal government, and the State government. Frequently two or more of these organizations jointly sponsored the program. WPA funds were not used in all cases, a condition that meant that funding of the school-feeding program depended solely on local sources (Agate, 1940, p. 36). Parents often donated food items and money as well as their time and labor for food preparation and service.

3. Needy children ate free, and efforts were made to prevent the identification of these children. In the rural schools, a child would be allowed to trade garden vegetables for the cost of the meal. Children who were able paid the lunch fee.

4. After 1935, the Federal government made agricultural commodities available to the school systems for school food service. During World War II, this program was no longer available to schools. However, Louisiana schools received cash subsidy payments instead of commodities from the Federal government.

5. Because educators in Louisiana had long recognized the positive correlation between learning and a well-nourished child, efforts were made to provide hot, nourishing meals. The WPA School Lunch Program in Louisiana was helpful in setting guidelines for lunch

components. Agate (1940, p. 50) noted that the standard WPA meal for Louisiana was

- a. carefully planned to provide at least one-third of the food needs of the day; and
- b. developed to include the following for a balanced meal;
 - i. a glass of milk;
 - ii. one raw vegetable or fruit, served plain or in salad; dried or canned fruits were substituted when fresh ones were not available;
 - iii. cooked vegetables, one of which was leafy;
 - iv. bread and butter; corn bread, cracked wheat, whole wheat, rye, etc; avoided use of white breads and biscuits too often;
 - v. if possible, meat, egg, or cheese dishes approximately three times a week;
 - vi. simple desserts served two or three times weekly.

B. State Legislation

1. State funding began in 1939, when the Louisiana Board of Liquidation appropriated \$250,000 for school lunches for the 1939-40 school term. An extraordinary session of the Legislature appropriated \$250,000 for school lunches in 1940. State funds for the operation of school feeding programs have continued through the years.

2. The 1948 Regular Session of the Louisiana Legislature passed the State School Lunch Act, which mandated free lunches for Louisiana school children. In 1950, the Louisiana Legislature amended the State School Lunch Act to require that those students who were able to pay part of the lunch fee.

3. On July 15, 1991, the Regular Session of the Louisiana Legislature revised the State School Lunch Act to require that all city or parish school boards participate in the School Breakfast Program. Breakfast must be initiated if at least twenty-five percent of enrolled students are eligible for free and reduced priced meals. Continued participation is subject to certain conditions.

4. The 1999 Regular Session of the Louisiana Legislature passed the House Concurrent Bill No. 268, which commended public school systems in compliance with certain federal dietary guidelines and encouraged systems not in compliance to comply by July 1, 2001. This bill was introduced into the Legislature as a result of research that suggests that individuals' health is directly related to their diet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§107. Goals

A. The Child Nutrition Programs- which include School Lunch, Breakfast, Free and Reduced Price Meals, Special Milk, Summer Food Service, and Nutrition Education and Training- are designed to provide learning experiences that will improve children's food habits with the ultimate goal of physically fit adults. Other goals are to serve nutritionally adequate, attractive, and moderately priced meals; to help children grow socially and emotionally; and to extend educational influences to the homes of school children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§109. Basic Beliefs

A. There are certain basic beliefs that should be recognized and accepted in the development of school food service programs. Present practices and trends indicate that educators, along with the general public, agree that nutritionally adequate school food service programs are an essential part of the educational process and help children grow through school food service experiences. These basic beliefs are as follows:

1. School food service is an integral part of the school program.

2. School food service is a nutrition program. Every child should have available a lunch that provides a minimum of 1/3 of the child's daily nutritional needs and a breakfast that provides 1/4 of daily nutritional needs.

3. School food service is a health laboratory; it should be recognized for the educational opportunities that can be used to enrich classroom experiences.

4. The nutritional value of school food service should be safeguarded. Foods and beverages that contribute to the child's nutritional needs and development of desirable eating habits should be available.

5. School food service and nutrition education must recognize individual differences in children.

6. Well-trained personnel are the key to a successful food service program.

7. School food service must be efficiently organized, administered, and operated on a sound nutritional, educational, and financial basis by qualified personnel.

8. Adequate facilities must be provided to have an efficient operation with proper sanitary and safety practices.

9. School food service success depends upon full support and cooperation from all administrative levels of the school system.

10. School food service progress depends upon continued evaluation, direction, and improvement to ensure that the program fulfills student needs.

11. School food service programs benefit from student involvement and community understanding, cooperation, and support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

Chapter 3. Administration

§301. Responsibility

A. The responsibility for the administration, operation, and supervision of Child Nutrition Programs (CNP) is vested in the educational authorities that are responsible for all other phases of the school program. A CNP must be well planned, organized, and administered on national, state, and local levels if it is to function as an integral part of the total school program. It is important to operate an efficient, high quality food service unit that meets the nutritional needs of children and provides an educational activity center for the school and community. The goals of the CNP will be met when these principles are applied by those in authority. The responsibilities of administrators are discussed below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§303. National Level

A. Child Nutrition Programs are administered by the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA). The USDA is authorized to issue regulations for the operation of the general cash-for-food assistance phase of the National School Food Service Programs pursuant to the authority contained in the National School Lunch Act and the Child Nutrition Act of 1966, as amended. After a decision to receive funds apportioned to the State by the FNS has been made, the Louisiana State Department of Education (LDOE) enters into a written agreement with the FNS for the administration of the CNPs in the state in accordance with provisions of the agreement. The FNS periodically issues regulations, reviews the programs within the state to determine compliance with the Agreement, provides technical assistance through its personnel and publications, and performs audits of the State Agency records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§305. State Level

A. Administration of the program is directed by the State Board of Elementary and Secondary Education (SBESE) which, under State law, may enter into agreements with the USDA to receive Federal funds for program operations, to prescribe regulations, and to establish policies for operation of the programs in accordance with Federal and State laws. Regulations and policies established by the SBESE are administered by the State Superintendent of Education, assisted by the Division of Nutrition Assistance (DNA) staff. This staff, which exercises leadership in all school food service matters, is responsible at the State level for administration and program supervision, including instructional and advisory services to schools and other supervisory assistance, to assure adequacy of program operations. Technical assistance visits or reviews shall be made each fiscal year to determine whether programs are being operated in compliance with Federal and State regulations and to offer assistance where needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§307. Local Level

A. Public, Independent Public and Nonpublic School Sponsor

1. Child Nutrition Programs in public schools are under the general supervision of the local school boards; independent public (Charter Schools), nonpublic schools, and Residential Child Care Institutions (RCCIs) are under the supervision of legal governing bodies or sponsors. Each parish or city superintendent or the sponsor's designated representative is administratively responsible for the organization, administration, and leadership of CNPs under his jurisdiction. He/she may delegate this authority to a school food service staff.

B. School Food Service Director and/or Supervisor

1. This person is responsible to the superintendent or the sponsor's representative. As a member of the

administrative staff, the director and/or supervisor has overall responsibility for the CNP. This individual shall act as advisor for the other staff members, school principals and faculties, food service managers, students and parents in developing, administering and supervising the programs. It is his/her responsibility to exercise guidance and leadership while maintaining necessary controls over accounting and reporting, personnel, facilities and equipment. Each school/site shall be monitored by a director/supervisor in accordance with Federal and State regulations. (Refer to Forms and Guidance materials.) The significance of improved food habits and educational experiences makes it imperative that a CNP be based upon professional concepts. Each school system shall employ a certified supervisor or director. (Refer to §517. B.4.c.)

C. Principal

1. The CNP is an integral part of the total school. It is the principal's responsibility to administer the affairs of all school programs in compliance with local, State and Federal Regulations and policies, and to promote educational experiences. Direct involvement varies greatly from school system to school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§309. Requirements for Participation

A. Any public, independent public, or nonpublic school of high school grades or under recognized by the SBESE is eligible to participate in the CNPs administered by LDOE, provided that requirements set forth in the Agreement with the local school board, independent public school sponsor, or nonpublic school sponsor are met. In addition, some organizations that do not clearly meet the definition of "school" may be eligible to participate.

B. Child Nutrition Programs include the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), Child and Adult Care Food Program (CACFP), and Special Milk Program. After school snacks are included in the NSLP and the At-Risk Component of the CACFP.

C. Recognized Schools/Institutions/RCCIs

1. A recognized school is a school that

a. has a State-approved graded or non-graded course of instruction with certain standards required of students;

b. gives credit for advancement toward class work completed;

c. has compulsory attendance; and

d. maintains records thereof.

2. Special exceptions may be made for alternative schools sponsored by the local school boards.

3. A recognized institution is any public or nonprofit private Residential Child Care Institution (RCCI), or distinct part of such institution, that operates principally for the care of children, and if private, that is licensed to provide residential child care services under the appropriate State licensing codes.

4. Under the above criteria, the following types of schools of high school grades or under and institutions generally qualify.

a. Boarding or Institutional Schools

i. Boarding or Institutional Schools are eligible to participate if food costs for school children are satisfactorily separated from the total food cost, including adults, and if prior approval has been obtained from the State Agency. Such eligible schools can claim reimbursement for only one lunch, breakfast, and/or snack per school child served on regular school days.

b. Bureau of Indian Affairs (BIA) Schools

i. Bureau of Indian Affairs schools are operated by the BIA or under a BIA contract; they are allowed to participate under the same terms as all other recognized schools.

c. Charter Schools

i. Independent public schools that provide a program of elementary or secondary education, or both, organized as nonprofit corporations and governed by their own board of directors within the framework agreed to in the charter granted by the local school board or the SBESSE are allowed to participate under the same terms as all other recognized schools. These schools must be public (governmental) or private nonprofit 501(c)(3).

d. GED Programs or Regular High School Completion Programs

i. GED Programs or Regular High School Completion Programs that operate during regular school hours in an eligible school may participate in the meal service.

e. Kindergarten or Day Schools

i. Kindergarten or Day Schools, public or nonpublic, are recognized as schools by State statutes. Such schools may be operated as an integral part of schools with higher grades, or as separate schools.

f. Military Post Schools

i. Military Post schools are schools of high school grade or under, operated by any branch of the Armed Forces, on any military installation within the State. They are allowed to participate under the same terms as all other recognized schools.

g. Nonresidential Nonprofit Child Care Institutions

i. Nonresidential nonprofit Child and Adult Care Institutions may participate in the Special Milk Program provided that they do not participate in a meal service program authorized by the National School Lunch Act or the Child Nutrition Act of 1966. These institutions are not eligible for lunch or breakfast programs, and they cannot participate in the NSLP or SBP.

h. Public or Nonprofit Private Pre-Primary Classes

i. Public or nonprofit private pre-primary classes are eligible if they are recognized as part of the educational system in the state or if they are conducted in a school having classes of primary or higher grades.

i. Public or Nonprofit Private RCCIs

i. Public or nonprofit private RCCIs that have temporary clientele are eligible to participate as long as they operate on a continuous basis. Private RCCIs must be licensed by the State and have tax-exempt status. RCCIs include, but are not limited to, homes for the mentally, emotionally or physically impaired; unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers.

j. Split-session Kindergarten Programs

i. Split-session Kindergarten programs in schools that participate in a meal service program authorized by the National School Lunch Act and Child Nutrition Act may offer the Special Milk Program to children who attend split-session kindergarten and who do not have access to the meal service.

k. Special Schools

i. Special Schools include those conducted for blind, deaf, mentally or physically impaired, or special children. These schools are allowed to participate under the same terms as all other recognized schools.

1. State Special Training and Correctional Schools

i. State Special Training and Correctional Schools that are recognized or accredited by the LDOE are eligible to participate in the NSLP and SBP.

m. Nonpublic School

i. A nonpublic school is interpreted to mean a private school that is exempt from income tax under the Internal Revenue Code, as amended. This term also applies to parochial schools. These schools are allowed to participate under the same terms as all other recognized schools. These schools must have 501(c)(3) status from Internal Revenue Service.

D. Eligible Participants

1. Child

a. Child is defined as a student of high school grade or under as determined by the LDOE, who is enrolled in an educational unit of high school grade or under. Included in this definition are students who are mentally or physically disabled as defined by the State and who are participating in a school program established for the mentally or physically disabled. Child is also defined as a person who is under 21 chronological years of age who is enrolled in an institution or center that is a public or nonprofit private RCCI or distinct part of such institution that operates principally for the care of children. If this institution is private, it must be licensed to provide residential child care services under the appropriate licensing code by the State. Residential summer camps that participate in the SFSP for children, Job Corps centers funded by the Department of Labor, and private foster homes are not eligible to participate.

2. Student

a. A student is defined as an individual for whom instruction is provided in an elementary or secondary educational program under the jurisdiction of a school, school system, or other educational institution. If the school board administers a Head Start Program, these children may be eligible to participate as students. Contact the State Agency for clarification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§311. Permanent Agreement Between Sponsor and Louisiana State Department of Education

A. Sponsorship of a CNP is limited to the board of a public school system, the board of a charter school if public (governmental) or private nonprofit 501(c)(3), or the governing body legally responsible for the administration of a nonpublic school if 501 (c)(3). As sponsors, the board or governing body shall execute the required agreement with the LDOE and accept responsibility for carrying out all

terms. The Sponsor must also update a Schedule A listing all schools participating in the school lunch, breakfast, and/or snack program annually; submit an Application for Participation; provide staffing information; and provide any other required information regarding school food service in the schools or other institutions under its jurisdiction.

B. Reimbursement payments may be made only to schools operating under an agreement between the sponsor and LDOE. The Agreement shall be signed by the Sponsor's designated authorized representative. The Agreement will be considered permanent unless the State Agency is notified of a change in the School Food Authority (SFA) authorized representative. The Agreement may be terminated by either party or may be canceled at any time by the State Agency upon evidence that terms of the A agreement have not been fully met.

C. Conditions of the Agreement

1. Nonprofit Programs

a. Child Nutrition Programs in schools named in the Schedule A shall be operated on a nonprofit basis. Income accruing from the operation of the CNP in participating schools shall be used only for program purposes, which include improving the quality of the lunches, breakfasts and/or snacks; offering meals to needy children; reducing the price of the meal to paying children; and purchasing and maintaining adequate movable equipment needed in storing, preparing and serving adequate meals to children.

2. Proper Authority

a. The sponsor will employ personnel and will supervise the school food service operations to ensure compliance with Federal and State regulations.

3. Competitive Foods/Extra Sales Items

a. Each school shall abide by the State policy regarding the operation of competitive food services. The competitive foods policy and penalties for policy violations are discussed in §941. Selling of extra items shall be in compliance with State policy. (Refer to §937.)

4. Nutritional Requirements

a. All meals/snacks served shall meet at least minimum nutritional requirements for a reimbursable lunch/breakfast and/or snack as set forth in program regulations.

5. Offering Lunch /Breakfast and/or Snack

a. Meals/snacks shall be served without cost or at a reduced cost to all students who are eligible in accordance with free and reduced price meal regulations.

6. Unit Price of Meals

a. Meals shall be priced as a unit, including milk; and no reduction shall be made in the price of the lunch, breakfast, or snack when students or adults do not take all items offered. In non-pricing meal programs, there shall be no specific charge as described in the Application for Participation except for the adult/visitor charge.

7. Nondiscrimination

a. No discrimination against any child shall be made by the sponsor because of his/her eligibility for free or reduced price meals in accordance with the approved Free and Reduced Policy Statement, nor shall the sponsor publish or provide the names to be published of any children eligible for free or reduced price meals.

8. Meal Charges

a. Meal charges including student, adult, and at-cost shall be posted in a prominent location in each school food service dining room. All persons consuming meals who are not eligible for free meals shall pay directly to the sponsor the cost posted. No student shall be requested to pay more than the actual cost of the lunch, breakfast, and/or snack, less the amount of reimbursement paid to the sponsor from Federal funds. The minimum charge to eligible adults shall comply with Federal and State regulations. (Refer to §527.)

9. Food Purchases

a. All food purchased in the operation of CNPs shall be purchased in accordance with all Federal and State procurement regulations. All procurement transactions of a sponsor—regardless of whether negotiated or advertised, and without regard to dollar value—shall be conducted to provide maximum open and free competition.

10. Local Responsibility

a. It will become the responsibility of the sponsor to secure additional funds needed if it is not possible to operate the school food service program satisfactorily with State and Federal Reimbursement. In operating CNPs, should a sponsor find that it is unable to operate satisfactorily on the rate of reimbursement, it will become the responsibility of the sponsor to secure the additional funds needed.

11. Use of Funds

a. Income accruing to the CNP shall not be used to purchase land, to acquire or to construct buildings, or to make alterations to existing buildings. Revenues received by the nonprofit school food service are to be used for the operation or improvement of such food service. (Refer to Chapter 5.Financial Management and Accounting.)

12. Equipment Purchases

a. Purchases made for approved equipment from school food service funds shall be for the replacement or addition of equipment. All equipment needed to begin operation of the CNP must be furnished by the sponsor or school. (Refer to Chapter 15.Equipment.)

13. Adequate Facilities

a. Adequate facilities shall be maintained for storing, preparing, and serving food purchased for the CNP and food donated by USDA. Facilities shall properly safeguard foods against theft, spoilage, infestation, damage, and other losses. Proper sanitation and health standards conforming to all applicable State and local laws and regulations will be maintained in all CNPs.

14. Deposit of Funds

a. The Sponsor shall be responsible for separate accounting of all school food service funds. A consolidated school food service account is the suggested method of accounting for these funds.

b. Using this method, a Sponsor would deposit or cause to be deposited in the consolidated school food service account, all school food service funds received, write all checks against these funds, and maintain complete records for the expenditure of these funds.

15. Records

a. The Sponsor shall maintain a financial management system as prescribed by the LDOE and the USDA. Full and accurate records of all operations pursuant to the agreement shall be retained by the sponsor for a period of three years after submission of the final claim for reimbursement for the fiscal year. If any audit findings have

not been resolved, the records shall be maintained as long as required until the audit is closed. If any litigation, claim, negotiation, audit or other action involving the records has been started before the end of the three year period, the records shall be maintained until all issues have been resolved, or until the end of the regular three year period, whichever is later. The sponsor will make available to the LDOE and to the USDA for examination, audit and review, at any reasonable time and place, all accounts and records of the sponsor pertaining to the operation of the program. (Refer to Chapter 5. Financial Management and Accounting.)

16. Reports and Claims

a. The sponsor will monthly submit to the LDOE a report of program operations for each month and claims for reimbursement for meals/snacks served to eligible children in each school during operating and non operating months. The sponsor will assume full responsibility for the accuracy of all claims for reimbursement and for reports submitted to the LDOE pursuant to the agreement. The sponsor will claim reimbursement for meals/snacks served to only eligible children at the assigned rates. If there is any irregularity in the operation of the CNP in any school, a disallowance shall be made in the sponsor's claim.

17. Approved Classification and Brumfield VS. Dodd

a. Each school shall have a State-approval classification and shall be in compliance with Brumfield vs. Dodd.

18. Annual School Report

a. All schools shall submit an Annual School Report to the LDOE, according to the established timeline.

19. Annual Financial Statistical Report

a. Each sponsor shall submit information required for the completion of the Annual Financial and Statistical Report.

20. Civil Rights Compliance

a. No person shall- on the grounds of race, color, national origin, sex, age or disability- be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity for which the program applicant receives Federal financial assistance from the USDA; and the sponsor shall give assurance that it will immediately take measures necessary to effectuate the agreement. The program applicant shall compile data, maintain records, and submit reports, as required, to permit effective enforcement of the nondiscrimination laws. The sponsor shall permit authorized USDA and LDOE personnel to review such records, books, and accounts during normal working hours as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the USDA shall have the right to seek judicial enforcement of this assurance.

b. All program advertisements, public release, etc. shall have the civil rights statement printed on them. (Refer to "Chapter 23; Handling-Handling Complaints.")

21. Program Materials

a. The sponsor shall agree to make educational materials pertaining to the CNP available to the schools.

22. Regulations

a. The CNPs at all times shall be operated in accordance with all policies and regulations as established

by the LDOE, and/or USDA. (Refer to Code of Federal Regulations (CFR) 210 to 299 and (CFRs) 3015, 3016, 3017, 3018, and 3019 for additional information on Federal Regulations.)

23. Net Cash Resources

a. The LDOE shall review the information on net cash resources and shall require the Sponsor with school food service net cash resources of more than three months average expenditures to explain the need for such resources. If, after consideration of the plan, it is determined that resources are excessive to operating needs, the LDOE will reduce or deny reimbursement payments until the net cash resources have been reduced to an amount consistent with the operating needs.

24. Transfer of Funds

a. Charges against the CNP must be made each month as the expenses occur or in the event that an expense(s) occurs only at intervals: i.e., quarterly or semi-annually. At the end of the school year, the transfer to the sponsor of school food service funds for apportioned costs accruing during the year will not be allowed except for expenses incurred during the month of June or the last month of operation: i.e. such transfer cannot be effected for the entire year's operation. Expense(s) must be charged against the CNP at that time and payment must be made from the school food service program account to the sponsor at the time the expense(s) occurs. Any deviation from this policy shall necessitate repayment to the CNP account of the full amount of the transfer.

25. Contract Meals

a. The Sponsor agrees to submit annually, with the free and reduced documents, a copy of the contract when contract meals are provided. (Refer to § 929.)

26. Donated Foods

a. The CNP shall accept and use, in as large quantities as may be efficiently utilized in its nonprofit school food service, donated foods offered by the USDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

Chapter 5. Financial Management and Accounting **§501 Financial Assistance**

Federal Assistance

1. Funds are apportioned to the State to be used in reimbursing schools for the cost of the school food service program. Distribution is made on the basis of the number of lunches, breakfasts, and snacks served to children.

B. State Assistance

1. State funds for the support of food service employee salaries are provided to the local level through the education block grant. The Minimum Foundation Program (MFP) formula is used to allocate these funds to local educational programs. At a minimum, School Food Authorities (SFAs) shall designate State funds to the school food service program at a level sufficient to meet revenue fund matching requirements, as specified in USDA, FNS, 7 CFR Part 210.17. If at any time the school food service program operating balance is at a deficit, it will become the responsibility of the SFA to secure the additional funds needed to operate the school food service program satisfactorily.

C. Local Assistance

1. Local sales tax revenues, school general fund monies, and other dedicated sources of revenues may be available at the local level for use in the school food service program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§503 Basic Requirements For School Food Service

Financial Accountability

A. The following requirements are mandated for financial management of the National School Lunch Program, the School Breakfast Program, and the Special Milk Program in Louisiana. Federal and State regulations require the adoption of these standards as a minimum level of compliance toward financial accountability.

1. Nonprofit

a. The SFA shall operate the program as a nonprofit school food service operation.

2. Menus/Production Records

a. Menu records shall be developed and maintained to demonstrate positive action toward meeting the required nutrient standards as defined in USDA, 7CFR, 210.10. Production records shall be maintained daily to demonstrate positive action toward providing one reimbursable lunch, breakfast, and snack (as applicable) per eligible child per day.

3. Participation Data

a. Documentation of participation data per school shall be maintained daily to support the Claim for Reimbursement.

4. Counting and Recording Meals

a. The system used for counting and recording meal totals, by category, claimed for reimbursement at both the SFA and school levels shall yield correct claims.

5. Expenditures

a. Expenditure of funds shall be limited to food, labor, and other allowable costs as noted in this chapter. School food service funds shall be expended solely for the school food service programs.

6. Separate SFS Accounting/School Deposits

a. The Sponsor shall be responsible for separate accounting of all school food service funds. All money earned or received, including interest on investments, must accrue to the school food service account.

b. Schools shall deposit all receipts daily. Any exceptions must have written approval from the State Agency on file. Money collected must be stored in a secure place at the schools. Any losses that occur through theft must be verified by a complete police report of the incident. Any losses that occur because of negligence that cannot be verified by a police report must be recovered from other funds.

7. Transfer of Funds

a. School food service funds may be loaned to the General Fund; however, the funds and market interest rate shall be repaid within the same fiscal year.

8. Transaction Records

a. All income, expenditures, and meal counts shall be supported by source documents such as itemized invoices, attendance and payroll records, deposit slips, inventory records, participation records, etc.

9. Inventory Requirements

a. Perpetual inventories and separate monthly physical inventories of purchased food and USDA commodities are required. An annual inventory of equipment valued at a unit acquisition cost of \$1000 or more with a useful life of one year or more is required.

10. Property Management Standards

a. The SFA shall follow property management standards to safeguard school food service property as described in, §523, "Property Management Requirements."

11. Retention of Source Documents

a. All records, reports, inventories, invoices, receipts, and other source documents shall be maintained for a period of three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed. Records for equipment with a unit acquisition cost of \$1000 or more with a useful life of one year or more acquired in whole or in part with school food service funds shall be retained for three years after its final disposition.

12. Records

a. All records pertaining to the National School Lunch, School Breakfast, and Special Milk Programs are subject to audit by both State and Federal authorities to determine, at a minimum, the fiscal integrity of financial transactions and reports and the compliance with laws, regulations, and administrative requirements.

13. Accountability of Assets

a. Control over and accountability for all funds, property, supplies, and other program assets shall must be maintained to ensure that they are safeguarded and used solely for authorized program purposes.

14. Auditing of Federal Funds

a. A SFA expending a total of \$300,000 or more a year in Federal funds for all programs, shall have a single or program specific audit conducted in accordance with the provisions of Circular A-133. (Refer to §533, "Audit Requirements," for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§505 Nonprofit Status/Net Cash Resources

A. Each SFA shall, with respect to participating schools under its jurisdiction, maintain a nonprofit school food service and observe the following limitations on the use of nonprofit school food service revenues:

1. Revenues

a. Revenues received by the nonprofit school food service shall be used only for the operation or improvement of such food service. Expenditures of nonprofit school food service revenues shall be in accordance with the policies discussed in §517, "Allowable/Unallowable Program Expenses."

2. Nonprofit Nutrition Program

a. SFA may use facilities, equipment, and personnel supported with nonprofit school food service revenues to support a nonprofit nutrition program for the elderly, including a program funded under the Older American Act of 1965.

3. Net Cash Resources Limit

a. The SFA shall limit its net cash resources to an amount that does not exceed three months average
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expenditures for its nonprofit school food service. Section 3, "Net Cash Resources," of the June District Income and Expense Report must be completed at the end of the State fiscal year. Exception: RCCIs do not report Net Cash Resources. (Refer to "RCCIs Nonprofit Status" in this section.) This procedure allows the State Agency to monitor the SFA's nonprofit status.

4. Calculation of Three Months Average Expenditures

a. The following procedure is used in determining three months average expenditures:

- i. total all district expenses for the entire fiscal year, July 1 - June 30;
- ii. divide total expenses by 9 and multiply by 3 to calculate the three months average expenditures;

5. Determining Net Cash Resources

a. The following procedure is used in determining net cash resources:

- i. record cash on hand in school cafeterias and/or the central office that has not been deposited;
- ii. add the latest reconciled operating-fund bank balance;
- iii. add the total value of investments, including interest earned, certificates of deposit, money market funds, etc.;
- iv. add the total of any accounts receivable such as outstanding reimbursement checks;
- v. subtract the subtotal of any payables such as salaries earned but not yet paid, etc.

B. Excess Net Cash Resources

1. If the net cash resources exceed the SFA's three months average expenditures, the SFA must submit a written corrective action plan to the State Agency with its June claim for reimbursement. The corrective action plan must describe actions for reducing net cash resources to no more than three months average expenditures and the time frame for effecting such reduction. If the plan is not approved by the State Agency or is not implemented as approved, the reimbursement may be reduced or denied.

C. RCCI's Nonprofit Status

1. The State Agency will monitor the nonprofit status of RCCIs by ensuring that the cost of providing meals to eligible children equals or exceeds funding received by the program from Federal and/or State funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§507 Food Production

A. In order to receive reimbursement, the SFA shall demonstrate that meals and snacks meet the minimum requirements established for lunch, breakfast, and snacks. Sufficient records must be maintained on file at each school/central kitchen to document that reimbursable meals and snacks were served.

1. Menus

a. Cycle menus are required; they shall be planned in advance and implemented during the school year. Menu records must be maintained to reflect meals as planned and served.

2. Standardized Recipes

a. Standardized recipes shall be developed and used to prepare menu items. They must be maintained and available at each school/central kitchen.

3. Daily Food Production Records

a. Production records shall include sufficient information to evaluate each meal's /serving line's contribution to the meal patterns as specified in Federal Regulations 7CFR 210.10.

b. Daily Food Production Records of the school lunch/breakfast/snack programs shall be maintained up-to-date for each participating facility by the manager. At a minimum, these records must include the items listed below:

- i. the number of servings planned according to serving size;
- ii. each menu item served/offered, including condiments;
- iii. major/key ingredient(s) for each menu component/food item if a Daily Issue/Withdrawal form is used (If a Daily Issue/Withdrawal form is not used, all ingredients must be listed.);
- iv. the serving size(s) of each menu component/food item;
- v. the quantities of foods used;
- vi. the number of servings/quantities of foods leftover;
- vii. the number of persons served according to serving size and category, adult or student; and
- viii. the number of trays/plates used.

c. The State agency provides a prototype Daily Food Production Record. The SFA may develop its own form if the form contains the required information and the State Agency gives prior approval.

B. Daily Issue/Withdrawal Forms

1. SFAs not costing on the Food Production Record must complete a Daily Issue/Withdrawal form for all ingredients used in preparing the breakfast, lunch, and snack menus. The State Agency provides a prototype Daily Issue/Withdrawal Form. The SFA may develop its own form with the required information.

2. Daily Issue/Withdrawal records shall include sufficient information to evaluate the menus' contribution to the meal patterns as specified in Federal Regulations 7CFR 210.10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§509 Daily Participation Report

A. Each facility, including satellite schools, operating under a separate site code, shall maintain daily participation records. At a minimum, these records must include: (1) data on the income received; (2) number of meals served according to the appropriate categories-free, reduced, and paid student meals/snacks; contract meals; at cost/visitor meals; (5) school food service employee meals; (6) school system employee meals; and extra servings. Schools participating in Special Assistance Certification and Reimbursement Alternatives---Provisions 1,2, or 3---shall maintain participation records as specified in the Policy Statement for Free and Reduced-Price Meals. Information from the Daily Participation Report shall be submitted at the end of the month on the school system's Claim for Reimbursement.

B. The Daily Participation Report must be completed by the manager or food service clerk and must be accessible to the central office of the SFA following the month of

operation. A prototype Daily Participation Report is provided by the State Agency. The SFA may develop its own form if the required information is provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§511 Extra Sales Accountability

A. The SFA must ensure that schools implementing extra sales maintain a daily record of the number of servings of each extra sale item prepared, the number sold, the number leftover, the sale price, and the amount collected for each item sold that day. Schools that consistently sell only a few of the same extra items each day may be able to maintain the required information on a combination of the Food Production Record and Daily Participation Report. Schools that sell numerous extra sale items each month shall maintain a separate extra sales accountability form. The forms shall be submitted to the central office of the SFA monthly. A prototype Extra Sales Form is provided by the State Agency. The SFA may develop its own form if the required information is provided.

B. For information on pricing extra sales, the SFA should refer to §537, "Pricing for Extra Sales Items."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§513 Special Functions/Catering

A. The SFA may allow the school food service program to provide services beyond the established school lunch, breakfast, and after school snack programs. Special functions and/or catering activities shall not interfere with the preparation and service of student meals/snacks.

1. Use and Sale of Commodities

a. USDA commodities shall not be used in the preparation of any food item used in catering/special functions (for example, supplying refreshments for the PTA/PTO); however, commodities may be used in the preparation and sale of foods for any school related functions where the primary beneficiaries of the food are the students themselves. (Refer to "Chapter 19: Commodities.")

2. Accountability

a. All records shall be maintained separately from the school lunch, breakfast, and snack records for a minimum of three years. A detailed record of food; labor; equipment and supplies such as paper, disposables, cleaning, etc.; and delivery costs must be maintained. All catering and special function records shall document the type of activity/event, school food service employees who worked, the number of hours they worked, and a completed Daily Food Production Record. The Daily Food Production Record shall include the number of meals planned and the foods and supplies used/purchased with accompanying costs.

b. School food service must be paid for all services, food, and supplies used in connection with/catering/special functions. The charges for any product or service must be sufficient to recover the full production cost (including commodities when allowed) plus a profit. At a minimum, these costs shall include food, labor (wages plus any benefits), paper and nonfood supplies, transportation, utilities, etc. It is recommended that the SFA add a minimum of 10% to the total bill to ensure that all costs are recouped.

All monies earned or received shall accrue to the school food service account. The collection and reporting of State and local taxes shall comply with regulations governing sales and use tax. To maintain a tax-exempt status and to avoid competing with the private sector of the community, each SFA should limit catering to schools, school-sponsored events, and nonprofit organization events. (For additional information, contact the nearest district office of the Louisiana Department of Revenue and Taxation, Sales Tax Division.)

c. Separate accounting records must be maintained for catered events. These records shall document all purchases and expenditures. All accounting practices must follow guidelines outlined in Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook, Bulletin 1929. (For more information and requirements, refer to Chapter 9: "Catering," "Special Functions.")

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§515 Rental of School Food Service Equipment

A. School food service programs that have purchased equipment not being fully utilized by school food service may choose to share this equipment with other school programs under a rental agreement. The fair market rental must be charged. Examples of equipment that school food service may rent to other programs include computer space/time, copy machines, trucks, etc.

B. Rental agreements between school food service and other school programs shall have prior written approval from the State Agency. Equipment purchased with school food service funds must be used solely for school food service unless an approved rental agreement has been executed. The rental of school food service equipment to other programs must not interfere with the operation of the school food service program.

C. The rental agreement should contain, but not necessarily be limited to, the following:

1. a description of the equipment, including manufacturer's serial number;
2. the rental period;
3. the amount of time and hours the equipment is available for use;
4. the rental fee and payment procedures; and
5. a clause which allows for termination of the agreement should school food service require full use of the equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§517 Allowable/Unallowable Program Expenses

A. The expenditure of program funds shall be limited to food, labor, and other allowable costs incurred in the operation of the overall school food service program. The expenditure of school food service funds for any items other than those specified or for which prior approval has been given by the State Agency will necessitate an audit adjustment of the total amount of the expenditure.

B. The reimbursement from school food service funds to the Sponsor's general fund for apportioned costs occurring during the year will not be allowed at the end of the school

year. Charges against the school food service program must be made each month as the expenses occur. In the event an expense occurs only at intervals— e.g., quarterly or semi-annually— the expenses must be charged against the school food service program at the time; and payment must be made from the school food service program account to the Sponsor at the time the expense occurs. Any deviation from this policy will necessitate repayment to the school food service program account of the full amount of the reimbursement.

1. Joint Expenses/Purchases

a. Sometimes it is in the best interest of the SFA to share the expenses or to purchase jointly items or services that will not be utilized solely by the SFA. Examples of such shared expenses are labor costs for time and effort devoted specifically to the school food service program and costs of shared equipment such as computers and copy machines.

b. Certain joint purchases made with program funds are allowable with prior written authorization from the State Agency. A plan for allocation of costs will be required to support the distribution of any joint costs related to the school food service program. All costs included in the plan will be supported by formal accounting records, which will substantiate the propriety of eventual charges. The allocation plan should contain, but not necessarily be limited to, the following:

- i. the nature and extent of services provided and their relevance to the school food service program;
- ii. the items of expense to be included; and
- iii. the methods to be used in distributing costs.

c. After approval has been received, the plan for allocation of cost shall be retained at the central office for audit purposes. The cost allocation plan shall be retained for three years after the end of fiscal year in which the sharing ceases or the equipment is disposed.

2. Food

a. The actual costs for food used for the operation of the nonprofit school food service program is an allowable expense. (Refer to §523, "Inventory of Food," and "Cost of Food Used.") The Cost of Food Used form is used to calculate the monthly food cost. The costs for food used for all schools within the SFA are totaled and reported on the annual District Income and Expense Report.

b. If food is stolen, a police report must be maintained on file for audit purposes. Expenses for food stolen are considered allowable costs only when a police report has been made. All losses of USDA commodities must be reported to the Food Distribution Division on a Claim Determination Form by the 25th of the month following the month of the loss. If the loss is a result of theft, the local police must investigate and a copy of the police report must accompany the Claim Determination Form.

3. Equipment

a. The acquisition cost of authorized equipment used directly in the food service operation, installation costs within the building, and the costs of repairs to such equipment are allowable program expenses. Purchases of equipment listed in this table need no prior State approval. (Refer to the Table of Authorized Large and Small Equipment, located in Chapter 15: "Equipment.")

b. The purchase of other equipment not addressed in the table is sometimes necessary for the

efficiency/effectiveness of the school food service operation. Such purchases, however, require prior approval from the State Agency.

c. There are certain categories of equipment that are unallowable school food service expenses. Unauthorized equipment items are listed in Chapter 15: "Equipment."

d. Initial equipment is the equipment that a Sponsor is required to have to begin a school food service program. The replacement of worn-out initial equipment or the purchase of additional equipment is an allowable expense. (Refer to Chapter 15 for guidance on required initial equipment.)

e. The costs of disposition of antiquated or inoperable equipment are allowable expenses. (Refer to Section §523, "Disposition of Equipment for Guidance.")

4. Labor and Benefits

a. Salaries and benefits for personnel who work full time for the school food service program are allowable costs. Salaries and wages of personnel who work part of the time for the school food service program and part of the time for other school programs must be allocated or prorated based on the actual hours worked for each program. Appropriate records of time spent on each program, as well as payroll records and job descriptions, must support the portion of costs reported as school food service expense. According to the United States Department of Agriculture (USDA), allowable costs include salaries, wages, and fringe benefits such as the employer's share of the contribution for retirement expenses and/or Social Security; employees' accident, health, and life insurance plans; unemployment insurance coverage; worker's compensation coverage; and health examinations for employees. Fringe benefits may also include compensation for personal consumption or incentive bonuses for schools that meet preset participation/revenue, budget compliance, and maintenance of sanitation standards, low employee absenteeism. The standard for allowable expenditures of a nonprofit school food service is that they represent allowable costs under applicable Federal cost principles and program regulations. The principles are established that items of employee compensation may be allowed to the extent these costs: are necessary and reasonable; are granted under established written procedures; are allocated, or charged, to Federal awards (the nonprofit school food service account in this case) in a manner consistent with the pattern of benefits attributable to the employees whose salaries and wages are being charged. That is, salaries and fringe benefits may only be assigned to the nonprofit school food service account to the extent that account is benefiting from these employees, and are consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit. (Refer to USDA memo 2001-SP-04.)

b. The State Agency recommends that labor expenses represent no more than 40% of the total school food service expenses. Labor costs should include all expenses paid to school food service personnel, including the central office, warehouse, and maintenance employees if paid with school food service funds. The payment for services of other school personnel— such as school secretaries, school bookkeepers, and school board members— is an unallowable expense. Extra monetary compensation to

school administrators, teachers, custodial and janitorial personnel for services to the program is also unallowable.

c. Each SFA shall have a certified Child Nutrition Program (CNP) supervisor or director. Each individual school food service unit shall have a certified manager assigned to oversee the operation. A certified manager may be assigned to one or more sites. The use of program funds to pay the salaries or wages of uncertified supervisors/directors, managers, assistant managers, or food production managers is unallowable. The use of program funds to pay the salaries or wages of provisionally certified supervisors/directors and temporarily certified managers is allowable.

5. Utilities

a. The cost of utilities is an allowable expense when substantiated by separate meters or by documented technical estimates conducted by the utility company or an engineering or energy consultant. The expense of hiring a consultant to document the technical estimate is also an allowable program expense. A copy of the technical estimate shall be maintained on file for three years after the end of the fiscal year in which the estimate ceases to be in effect. The estimate should be updated as necessary.

6. Maintenance and Repair

a. Routine preventive maintenance and repair of school food service equipment are allowable expenses.

7. Materials and Supplies

a. Other materials and supplies purchased for direct use in the school food service program are allowable expenses. Some examples of these expenses are supplies such as napkins, straws, aluminum foil, freezer paper, plastic wrap, cleaning and washing supplies, first aid and safety supplies, pest control, garbage pickup, uniforms, employee safety belts, laundry expenses, meal tickets, I.D. cards, computer software, office supplies, postage, and printing.

8. Marketing

a. Promotional materials relating specifically to the education and marketing of the Child Nutrition Programs to students, parents, teachers and the community are an allowable expense. Documentation to support each purchase must be maintained.

9. Meetings, Training, and Nutrition Education Activities

a. The cost of supplies for instructing students and teachers within the school system in nutrition education is an allowable expense. The expenses incurred to provide in-service training for school food service employees are also allowable expenses. Such expenses include purchase and/or rental of audiovisual equipment, purchase of training materials and supplies, and rental of meeting facilities. Other costs incidental to attending meetings and receiving training are also allowable. Costs for meetings are allowable when the primary purpose of the meetings is the dissemination of technical information relating to the school food service program. (Refer to "Travel" in this section for further details.)

10. Rental of Building/Warehouse Space

a. The rental cost of space in privately owned buildings used specifically for the benefit of the school food service program is allowable when the State Agency grants prior written approval.

11. Transportation

a. Expenses incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable. These expenses include transporting commodities, satelliting meals, and the delivery of purchased items.

12. Travel

a. Travel costs are allowable for expenses for transportation, lodging, subsistence, registration fees, and related items incurred by employees who are in travel status on official business incident to the school food service program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual cost incurred, or on a combination of the two. The method used shall be applied to an entire trip, and shall result in charges consistent with those normally allowed in like circumstances in non-federally sponsored activities.

b. The difference in costs between first-class and less-than-first-class air accommodations are unallowable except when less-than-first-class air accommodations are not reasonably available. Travel outside the state requires prior written approval from the State Agency.

13. Insurance and bonding

a. Costs incurred for insurance coverage and premiums on bonds covering employees handling program funds are allowable expenses. Insurance types and the extent and cost of coverage will be in accordance with general State or local government policy and sound business practice. Contributions to a reserve for a self-insurance program approved by the State Agency and by USDA are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

b. Actual losses that could have been covered by permissible insurance, through an approved self-insurance program or otherwise, are unallowable. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance—such as spoilage, breakage, and disappearance of small equipment which occur in the ordinary course of operations—are allowable.

14. Legal Expenses

a. The costs of legal expenses required in the administration of the school food service program are allowable. Legal services furnished by the chief legal officer of the State or local government of his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the State or Federal government are unallowable.

15. Membership Dues and Subscriptions

a. Payment of individual membership dues to professional organizations is an unallowable expense. The costs of books and subscription to professional and technical periodicals is allowable when related to the school food service program.

16. Printing and Reproduction

a. The costs for printing and reproduction services necessary for program administration including but not limited to forms, reports, manuals, free and reduced price

meal applications, meal tickets, and I. D. cards are allowable expenses.

17. Advertising/Publication

a. Advertising and publication costs that are related to the school food service program are allowable expenses. Such advertising may include the following:

- i. formal advertisement of bids for the procurement of goods and services;
- ii. recruitment of program personnel;
- iii. disposal of scrap or surplus material;
- iv. announcement of free and reduced price meal applications; and
- v. publication of school menus.

18. Taxes

a. Taxes that the school food service program are legally required to pay are allowable expenses. These include State and/or local sales taxes.

19. Repayment of Loans

a. If it becomes necessary for a school food service (SFS) program to borrow money from the general fund to meet expenses, the repayment of this loan to the general fund is allowable provided the SFS program has financial resources to repay the loan within the same fiscal year. If the SFS fund cannot repay the loan in the current year that it was borrowed without ending the year in a deficit, then the loan ceases to be a loan and the SFS program is no longer obligated to repay the general fund.

b. Payment of interest by a SFS on loans from the general fund is prohibited.

20. Audit Services

a. The school food service program's share of audit expenses is allowable. (Refer to §533, "Audit Requirements," for more information.)

21. Equipment Reserve Account

a. Contributions to a reserve for a major equipment replacement/purchase and/or lease program are allowable to the extent that total accumulated assets do not exceed an amount equal to the SFA's three months average expenditures. Since these funds are restricted, the equipment reserve account is not considered part of the SFA's operating balance. Interest that accrues to this account can be deposited to the school food service operating account or to the equipment reserve account. Equipment reserve funds must be itemized and reported with other net cash resources on the June District Income and Expense Report. This reserve for equipment replacement/purchase/lease shall remain part of the SFA's school food service account and shall be used solely for the replacement and/or purchase/lease of equipment for the school food service program. (Refer to §505, "Nonprofit Status/Net Cash Resources.")

22. Bad Debts

a. Any losses arising from uncollectible accounts and other claims and related costs are unallowable.

23. Contributions and donations

a. Contributions, donations, payments of gifts, and gratuities made with school food service funds are unallowable.

24. Entertainment

a. Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages,

lodgings, rentals, transportation and gratuities, are unallowable.

25. Fines and Penalties

a. Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations are unallowable.

26. Interest and Other Financial Costs

a. Interest on borrowing, however represented, bond discounts, costs of financing and refinancing operations and legal and professional fees paid in connection therewith are unallowable.

27. Capital Expenditures

a. The costs of capital improvements to food service facilities are unallowable. Such expenses include the purchase of land, acquisition or construction of buildings, and alterations or additions to existing buildings. Those improvements that materially increase the value or life of the building itself are considered as capital expenditures.

28. Cafeteria Enhancement

a. Costs incurred to improve the appearance and overall environment in the school cafeteria are allowable to the extent that such improvements do not constitute capital expenditures. Allowable expenses include paint, wall coverings, decorator items, window coverings, floor coverings and screens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§519 Accounting/Deposit of Funds

A. The Sponsor shall be responsible for separate accounting of all school food service funds. This separate accounting may be achieved by maintaining a separate school food service bank account. If the funds are deposited into a central account of the Sponsor, separate cost centers for various program revenues and expenses must be implemented. All money collected, earned or received, including interest on investments, must accrue to the school food service bank account or cost center. The authorized SFA representative must make all disbursements from the school food service bank account or cost center.

B. Schools shall deposit daily all school food service income collected. These funds may be deposited into individual school food service bank accounts and transferred twice a month or at the end of each month into the central school food service bank account. Schools may also deposit directly into the central school food service account. The amount collected each day must be recorded on the Daily Participation Report. A bank validated copy of the deposit slip must be retained on file.

C. Where there is no bank in close proximity to the school, upon request the State Agency may approve less frequent deposits. In such instances, a deposit slip shall be completed for each day that money is collected. Deposits must be made at least once a week prior to the weekend and monies must be stored between deposits in a secure place at the school. Any losses that occur through theft must be verified by a complete police report of the incident.

D. All school food service funds must be deposited in financial institutions with Federal depositors' insurance coverage such as FDIC or FSLIC. Any balance exceeding the federally insured coverage must be collaterally secured.

E. Since the funding source of NSLP, SBP, and SMP is predominately from public funds and depreciation is not required, Sponsors are encouraged to account for the program funds as a Special Revenue Fund. As a Special Revenue Fund, public school systems and residentials sponsored by public agencies shall comply with the Louisiana Local Government Budget Act.

F. Program cost accounting and reporting shall comply with the classification and coding system set forth in the latest revision of Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook for Local School Boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§521 Source Documents

A. The SFA shall maintain or cause to be maintained, for a period of three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain, full and accurate records of all operations pursuant to the Agreement. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

B. The SFA shall submit monthly during operating and non-operating months to LDOE a report of program operations and Claims for Reimbursement System Participation Data and School Participation Data) for meals/snacks served to children in each school. The District Income and Expense Report shall be submitted annually at the close of the fiscal year. The SFA shall assume full responsibility for the accuracy of all claims and reports submitted.

C. Source documents for program operations include but are not limited to the following:

- i. all canceled checks;
- ii. agreements;
- iii. applications for free and reduced meals;
- iv. attendance factors;
- v. claim for Reimbursement;
- vi. contracts or agreements to provide meals;
- vii. copies of deposit slips;
- viii. cost of Food Used Worksheets;
- ix. daily Food Production Records;
- x. daily Participation Reports;
- xi. direct certification documentation;
- xii. edit check documentation;
- xiii. employee time and attendance records;
- xiv. inventories, (physical, perpetual);
- xv. invoices for food, equipment, labor, and supplies;
- xvi. labor Budgets for RCCIs and private schools;
- xvii. letters from the State Agency granting approvals or exemptions;
- xviii. master lists of approved eligibles with dates of approval and termination;
- xiv. meal equivalent factors;
- xx. policy Statement documents;
- xxi. procurement documents;
- xxii. property management records;

- xxiii. severe need breakfast documentation;
- xxiv. schedule A;
- xxv. SFA monitoring documentation (breakfast, lunch and snacks);
- xxvi. meal count documentation such as tickets and/or ticket stubs, checklists, etc.;
- xxvii. Product Formulation Statements;
- xxviii. verification documentation;
- xxix. menus/recipes;
- xxx. Nutrient Analysis (if applicable);
- xxxi. Child Nutrition Labels (Food Based Menu Planning Option);
- xxxii. Issue/Withdrawal Form (if costing is not entered on the Food Production Record).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§523 Property Management Requirements

A. Inventory of Food

1. The first-in, first-out (FIFO) method of inventory usage is required. All food items shall be dated upon delivery and utilized on a first-in, first-out basis.

2. Physical inventories of food quantities stored in each school shall be completed on the last day of each month of operation. Purchased foods and USDA commodities must be inventoried separately.

3. Perpetual inventories of both purchased and USDA commodities shall be maintained daily in each school and reconciled with the physical inventories at the end of the month. The perpetual inventory may be maintained by a manual or a computerized system.

4. School systems that use a warehouse facility to store food must also maintain a daily perpetual inventory. A physical inventory of foods stored in the warehouse must be completed at least once every quarter and reconciled with the perpetual inventory.

5. Each SFA should develop its own physical and perpetual inventory formats that reflect food items normally purchased for its schools. Sample inventory forms for taking a physical inventory and maintaining a perpetual inventory are available from the State Agency upon request.

B. Noncosted Physical Inventory

1. A noncosted physical inventory is a physical count of all unopened units of each item in stock that is recorded on an inventory form. To take a noncosted physical inventory,

a. prepare a form that lists all items in inventory and the unit size of each; include all items carried in the storeroom(s), refrigerators, freezers, and in the kitchen;

b. require that two people take the inventory, one to count and one to record;

c. using a blank inventory form, record the number of unopened single units in the storeroom(s), refrigerators, freezers, and in the kitchen; any single unit of food that has been opened during the month, but not completely used by the end of the month, should be counted as being used and should not be inventoried. (A single unit is defined as the smallest quantity of the food item; the smallest quantity is usually the purchase unit listed in the USDA Food Buying Guide, such as pounds or cans; the only exceptions to the single unit rule are large bulk units of staples--such as flour,

rice, meal, etc.-- which may be inventoried by the pound or by the purchase unit; margarine may be withdrawn from the inventory by the case, and eggs may be withdrawn by the case or by the dozen.);

d. after taking the physical inventory, compare it to the perpetual inventory; if there are differences, recount those items; if the discrepancy remains, review the food production records, daily issue/withdrawal sheets (if kept separate from the Food Production Record 6), and/or invoices to determine whether amounts recorded in the perpetual inventory are correct; if the discrepancies cannot be resolved, notify the supervisor and adjust the perpetual inventory to reflect the actual counts on hand.

C. Costed Physical Inventory

1. A costed physical inventory is a physical count of all unopened units of each item in stock. The number and value are then recorded on an inventory form. To take a costed physical inventory, adhere to the following procedures:

a. As items are received, mark each case, box, can, bag, etc. with the unit cost.

Repeat the steps as listed in this Section entitled "Noncosted Physical Inventory." In addition, record the cost of each unopened unit of food item in stock. If a food item has different costs on the units in stock, then the number of single units and the price must be recorded for each different cost.

c. After taking the physical inventory, compare it to the perpetual inventory. If there are differences, recount those items. If the discrepancy remains, review the food production records, and/or the daily issue/withdrawal sheets (if kept separate from the food production records), and/or invoices to determine whether the amounts recorded in the perpetual inventory are correct. If the discrepancies cannot be resolved, notify the supervisor and adjust the perpetual inventory to reflect the actual counts on hand.

d. After reconciling the physical inventory with the perpetual inventory, multiply the number of units of each item by the price per unit to obtain the total cost or value.

e. Total the costs of all items to obtain the total cost of the entire inventory. If food items are not exempt from State and/or local tax, the total cost of the inventory must be multiplied by the applicable tax percentage to determine the amount to be applied. Add the tax to the total cost of the inventory. If items are exempt, do not add any tax to the inventory cost.

D. Noncosted Perpetual Inventory

1. A noncosted perpetual inventory system records and maintains a daily balance for each item in stock. Items received are added to the balance on hand; the items withdrawn are subtracted. A manual or computerized system may be used to maintain a noncosted perpetual inventory system. To maintain a manual noncosted perpetual inventory, adhere to the following procedures listed below:

a. Complete an inventory page/card for each form and pack of each food item in inventory. Record items received, items issued, and the balance on hand. One card each would be used for the following:

- i. green beans, canned, whole, #10;
- ii. green beans, canned, cut, #10;
- iii. green beans, frozen, cut, 2# box; and green beans, frozen, cut, 20# box.

b. When beginning a perpetual inventory, record the date and number of single units on hand for each item on the first line.

c. As items are received, mark the unit prices on each container. Record on the inventory cards the date and number of single units and add this amount to the balance on hand to calculate the current balance.

d. As items are issued or withdrawn from inventory, record the number and subtract this amount from the balance on hand to calculate the current balance. A listing of all items withdrawn from the inventory must be made each day so that those items will be posted correctly to the perpetual inventory. The manager may use either the food production record or an issue/withdrawal form to record the items. The State Agency provides a sample daily issue/withdrawal form. It is not necessary to cost on the withdrawal forms. Systems may elect to use the food production record as the withdrawal record if all items withdrawn daily are listed.

e. At the end of the month, compare the perpetual inventory of each item on hand with the counts obtained from the physical inventory. (Refer to "Costed Physical Inventory" in this section for procedures to reconcile inventories.)

B. To maintain a computerized noncosted perpetual inventory, adhere to the procedures listed below.

1. Complete a computer inventory record for each form and pack of each food item in inventory.

2. As items are received, enter the date and number of single units received into the computer record.

3. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

4. At the end of the month, compare the perpetual inventory balance of each food item to the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this section for procedures to reconcile inventories.)

E. Costed Perpetual Inventory

1. A costed perpetual inventory system records and maintains a daily balance and value for each item in stock. A manual or computerized system may be used to maintain the costed perpetual inventory. The items received and their costs are added to the balance on hand; and as items are withdrawn, the number and costs are subtracted.

2. To maintain a manual costed perpetual inventory, adhere to the procedures listed below:

a. Complete an inventory page/card for each form and a pack of each food item in inventory. The State Agency provides a sample perpetual inventory card. One card would be used for each of the following:

- i. green beans, canned, whole, #10;
- ii. green canned, cut, #10;
- iii. green, frozen, whole, 2# box; and
- iv. green, frozen, cut, 20# box.

b. When beginning a perpetual inventory, record the date and number of single units on hand for each item on the first line. Also record the unit cost and total value of the item.

c. As items are received, record the date and number of single units and price per unit. Add this number of single units received to the balance on hand to calculate the current balance. When the items received have a

different unit price, do not add to the balance on hand, but record the total amounts at each price. Multiply the unit price(s) by the balance(s) on hand to calculate the current total value.

d. As items are issued or withdrawn from inventory, record the number at each price and subtract these amounts from the balance(s) on hand to calculate the current balance(s) and the new total value.

e. At the end of the month, compare the perpetual inventory balance of each item on hand with the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this section for procedures to reconcile inventories.)

F. To maintain a computerized costed perpetual inventory, adhere to the procedures listed below.

1. Complete a computer inventory record for each form and pack of each food item in inventory.

2. As items are received, enter the date and number of single units received and price per unit into the computer record.

3. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

4. At the end of the month, compare the perpetual inventory balance of each food item to the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this section for procedures to reconcile inventories.)

F. Cost of Food Used

1. The cost of food used each month is calculated from the value of costed inventories for all schools. The SFA has the option of costing either the physical or the perpetual inventories in order to determine the dollar value of the ending inventories.

2. At the end of the month, the cost of food used at each school for the month is calculated from the value of the beginning inventory plus the value of foods received, plus/minus any inventory adjustments and/or transfers, minus the ending inventory. The cost of food used is then adjusted to reflect the value of the inventory error from the previous month, if applicable. The State Agency provides a copy of The Cost of Food Used Worksheet. At the end of each fiscal year, the cost of food used for all schools is consolidated and reported on the District Income and Expense Report.

3. If the Cost of Food Used Worksheet is computer generated, it should capture all of the information that is on the Cost of Food Used Worksheet provided by the State agency.

G. Property Management of Equipment

1. Adequate maintenance procedures shall be implemented to keep equipment in good condition.

2. Property records shall be maintained accurately. Records for each item of equipment with a unit acquisition cost of \$1000 or more, with a useful life of one year or more, and purchased in whole or in part with school food service funds shall include the items listed below:

a. a description of the equipment including manufacturer's serial number;

b. an identification number, such as a school food service tag number or the manufacturer's serial number;

c. the acquisition date and unit acquisition cost;

d. the source of funding;

e. the location, use, and condition of the equipment, and the date the information was reported; and

f. all pertinent information on the ultimate transfer, replacement or disposal, including disposal date and sale price.

4. Every year a physical inventory of school food service equipment with a unit acquisition cost of \$1000 or more with a useful life of one year or more shall be conducted and the results reconciled with the property records to verify the existence, utilization, and continued need. Any discrepancies between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the differences.

5. Adequate safeguards to prevent loss, damage, or theft of equipment shall be used. Any loss, damage, or theft of equipment shall be investigated and fully documented. The State Agency may require a report of the circumstances.

H. Disposition of Equipment

1. The SFA may trade in existing equipment when acquiring replacement equipment.

2. Equipment that is antiquated or not useable shall be disposed of in the following manner. (This procedure may also be used when a SFA ceases to participate in the NSLP or SBP.)

a. The SFA shall actively seek to recover the highest possible return on equipment that is in good operating condition. Selling procedures shall be established to provide for adequate competition and for the highest possible return. To ensure maximum competition, the SFA shall publicly advertise and sell them to the highest bidder. All income shall be deposited in the school food service account.

b. If the SFA is unable to sell used equipment, efforts should be made to transfer the equipment to (a) projects or programs supported by other Federal grants or assistance agreements or (b) other programs that provide meals to children.

c. When unable to sell or transfer inoperable or used equipment, the SFA should attempt to sell the equipment to buyers of scrap materials following procedures that will provide maximum competition and result in the highest possible return to the school food service program.

d. If efforts to sell or transfer used equipment fail, the SFA may use school food service funds to have the equipment removed from school food service facilities and transported to the nearest legal disposal site.

3. For the disposal of equipment during bankruptcy proceedings, the SFA shall contact the Division of Nutrition Assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§525 Donations

A. Donations of food, equipment, and money may be accepted to supplement the school food service program. These donations shall remain the sole property of the school food service program; they must be received without solicitation or promise of favors to the donor. Donations may not be made by potential vendors.

B. To be used as reimbursable food components/items, donated food should 1) be a required food/menu item as specified by the menu planning option chosen, 2) be listed in the USDA Food Buying Guide or have a Child Nutrition (CN) label or a certified product formulation statement, and 3) meet sanitation standards required by the Louisiana Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§527 Retention of Records

A. All records, reports, inventories and source documents must be retained for a period of three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed. Records for equipment with a unit acquisition cost of \$1000 or more, with a useful life of one year or more, and acquired in whole or in part with school food service funds shall be retained for three years after its final disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§529 Access to Records

A. USDA and the Comptroller General of the United States, the Louisiana Legislative Auditor, LDOE, or any of their authorized representatives shall have the right of access to any books, documents, papers, or other records of the SFA which are pertinent in order to make audit examination, excerpts, and transcripts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§531 Internal Control

A. Effective control and accountability for all program funds and for all real and personal property assets shall be maintained. SFAs shall adequately safeguard all such assets and shall ensure that they are used solely for authorized program purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§533 Audit Requirements

A. SFAs that expend a total of \$300,000 or more a year in Federal funds for all programs shall have a single or program-specific audit conducted in accordance with provisions of Circular A-133 Revised 1997: Audit of States, Local Governments, and Non-Profit Organizations. Louisiana Revised Statutes 24:513 also require governmental audits and examinations of quasi-public entities as specified therein.

B. The SFA should make arrangements for an annual audit in accordance with Louisiana Revised Statutes 24:513. The audit shall be made by an independent auditor [the State Legislative Auditor or a Certified Public Accountant who is licensed to practice in Louisiana and who meets the independence standards specified in Generally Accepted Government Auditing Standards (GAGAS)]. The selection of an independent auditor is the SFA's responsibility,

although the Legislative Auditor or the State Agency can provide advice to those SFAs that have little or no experience in arranging for audit services.

C. In selecting an auditor, it is not necessary to implement a formal bid process, although the services must be obtained in an efficient and economical manner that provides maximum open and free competition. The SFA must provide an opportunity for small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals to submit proposals for the audits. The engagements are subject to oversight and approval by the Legislative Auditor.

D. The auditor must evaluate internal controls including an evaluation and written report on the SFA's internal accounting and administrative control systems over its Federal financial assistance programs. The auditor must also determine whether the SFA has complied with laws and regulations governing the Federally assisted program(s). The Auditor shall determine whether the financial statements and supplementary schedule of Federal awards of the SFA present fairly its financial position, and whether the results of its financial operations are in accordance with generally accepted accounting principles. The audited financial statements/schedules must provide details relating to the financial position and results of operation of the Child Nutrition Programs.

E. One copy of the audit reports shall be sent to the Office of the Louisiana Legislative Auditor and two copies shall be sent to the Bureau of Internal Auditing, LDOE. Recipients of \$300,000 or more in Federal funds shall also submit a copy of the audit report and Form SF-SAC: Data Collection Form within 30 days after its issuance to a central audit report clearinghouse. The address of the clearinghouse is

Single Audit Clearinghouse
Bureau of the Census
Data Preparation Division
1201 E. 10th Street
Jeffersonville, Indiana 47132

F. A single audit report is due 9 months following the end of the SFA's fiscal year. The State Agency is responsible for resolving findings resulting from the audit. Failure to comply with the audit requirements can result in suspension or termination of the Agreement between LDOE and the SFA.

G. The SFA's prorata share of expenses of the single audit is an allowable expense. In agency-wide audits, the cost of the audit should be shared by the various funds audited on a per-hour basis. If total federal funding is less than \$300,000, no part of the audit may be charged to the non-profit school food service account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§535 Computing Average Meal Cost

A. Each school system must use the average meal cost from the prior school year to establish meal charges for the current year of operation. If the school system sells extra food items, the cost and income generated from the extra sales must be taken into consideration when calculating the average cost of producing a breakfast and a lunch.

B. Computing Average Meal Cost For the Year

1. The following procedure is used to compute the average cost of lunch, breakfast and snacks.

a. Determine the total lunches served during the prior year.

b. Determine the total breakfasts served during the prior year and divide by two (2). Add this number to the total lunches served for the prior year.

c. Determine the total snacks served during the prior year and divide by five (5). Add this number to the total lunches and breakfast served for the prior year.

d. If the school system sold extra food items, divide the extra sales income for the year by the meal equivalent factor (which is the average cost of the meal). (Refer to §539, "Meal Equivalent Factor.")

e. Add the meal equivalents obtained in Step d to the number of lunches, breakfasts and snacks served in Step c. The sum of these numbers will be the number recognized as total meals served for the year.

f. Divide the total expenses for the prior school year by the total number of meals served in Step e to obtain the average lunch cost.

g. Divide the average lunch cost obtained in Step f by two (2) to obtain the average breakfast meal cost.

h. Divide the average lunch cost obtained in Step f by 5 to obtain the average snack cost.

C. Calculating Average Meal Cost For A Month

1. Some SFAs may want the average meal cost data on a more frequent basis. To calculate the average meal cost for each month, the SFA shall follow the same procedures as outlined in computing meal costs for the year, with the exception of using individual month expenses and meal counts. Extra sales income for the same time period or month shall be used to calculate the monthly meal equivalents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§537 Establishing Meal/Snack Charges and Extra Sales Prices

A. Meal and Snack Pricing Procedures

School systems shall use the following methods to calculate meal and snack charges.

a. Student

i. Full-Price Student Meals

(a.) Different meal charges may be established for elementary and secondary grade levels and for variation meals.

ii. Reduced Price Student Meals

(a.) The price charged for a reduced price lunch shall be less than the full price of the lunch and shall be 40¢ or lower. The price charged for a reduced price breakfast shall be less than the full price of breakfast and shall be 30¢ or lower.

(b.) The price of a reduced price meal may vary within the maximum limit of 40¢, provided there is no discrimination in the establishment of the charge. For example, it is permissible for the charge in high schools to be higher than the charge in elementary schools.

b. Student Snacks

i. Full Price Student Snacks

(a.) A student not qualifying for the free rate shall pay the snack price established by the SFA.

ii. Reduced Price Student Snacks

(a.) The amount charged for a reduced price snack shall be less than the full price of the snack and shall be 15¢ or lower.

c. Nonstudent Meals and Snacks

i. The average cost of the lunch, breakfast, and snack from the prior school year is used to determine meal/snack charges for non-student meals/snacks. (Refer to §535, "Computing Average Meal Cost for the Year.") Neither Federal Reimbursement nor children's payments can be used to subsidize nonstudent meals/snacks. Persons eligible to purchase meals/snacks in the school food service department are paid employees of the local school system; and visitors working with the school program such as contractors, volunteers, parents, guardians, grandparents, siblings, and non-school age children. Federal Reimbursement received by schools is based on the number of lunches, breakfasts, and snacks served to students; no reimbursement or commodities are provided for meals served to adults, visitors, or other nonstudents.

d. School System Employee Meals and Snacks

i. The minimum charge for employee meals shall be the average cost of the meal in the school system plus the value of USDA entitlements and bonus donated foods used to prepare the meal. The minimum snack charge for employees shall be the Federal free snack reimbursement rate.

(a.) The revenues listed below may be used to defray paid employee meal costs.

(i.) full or partial adult revenues;

(ii.) State or local Minimum Foundation Funds (MFF) contributions from the general fund which are above the State revenue match requirement; and

(iii.) payroll funds and/or funding from voluntary agencies.

e. Other Non-student Meals and Snacks

i. All visitors shall pay the average cost of the meal in the school system, plus the per-meal value of USDA commodities. For snacks, the minimum charge for a visitor shall be the Federal free snack reimbursement rate. Visitors that are required to pay this price include parents and non-school age children.

f. Contract Meals

i. A school system that contracts to provide meals to other institutions and/or non-school programs such as Head Start, daycare and elderly feeding must charge, at a minimum, the average meal cost plus the current per meal value of USDA commodities, which is the at-cost price. An additional charge for administrative expenses— such as transportation, packaging, etc.— and a profit margin may be added at the discretion of the school system. A copy of each year's written contract or agreement shall be maintained on file in the central office for review or audit.

g. Meal Payment Policies

i. In accordance with Act 209 of the 1956 regular session of the Louisiana Legislature, each school shall post meal charges in a prominent place in the food service area and all participants shall pay the appropriate cost. The students' ability to pay is determined through the free and reduced price meal application process. Those students not

eligible for free meals must pay for their meals at the prices established for full price and reduced price students. Regulations do not prohibit a school system from denying a meal to paying students who have not paid for the meal. All eligible adults except site-based food service employees and certain volunteer personnel in the individual school kitchens/cafeterias shall pay for their meals.

h. Collection Policies

i. Under-collections for the sale of meals and snacks will necessitate an audit exception; furthermore, any under-collection must be recovered from other sources and deposited in the school food service account. Although non sufficient funds (NSF) checks given to cover the cost of student meals are considered a part of the total cost of producing meals, each SFA must establish a policy regarding the handling of NSF checks. The system should limit the number of NSF checks a household may issue before requiring payment by cash or money order. When the bank returns an NSF check, the household should be required to pay, in cash, the amount of the check and the bank handling charge. When a tuition fee in nonpublic schools includes the costs of school lunch, breakfast, snack or milk, these funds shall be collected and deposited to the school food service account as received.

i. Pricing for Extra Sales Items

i. One of the purposes of implementing extra sales is to generate additional income, which can help to finance the school food service program. The full cost of producing the extra sales items— including food, labor, supplies, etc.— plus a profit shall be realized. No item may be sold at a price that results in a loss to the food service program. Proper accountability for extra sales shall be maintained and all income received must accrue to the school food service account.

ii. Several factors should be considered and identified when establishing the sale price of an extra item:

(a). the raw food cost of the item including the costs of purchased ingredients and the value of USDA commodity ingredients;

(b). labor expenses for the preparation of extra items;

(c). container costs, if using disposables;

(d). other costs, such as administrative expenses, cleaning supplies, energy costs, and wear and tear on equipment used in the preparation of extra items;

(e). the profit margin desired;

(f). the costs of similar items in local eating establishments; and

(g). the students' ability to pay.

i. The SFA may find it easier to implement extra sales if an average sale price for each category of menu items is established: for example, one average price is calculated for Entree Combos, Vegetable/Fruits, Desserts, Beverages, etc.

ii. Averaging sale prices will result in more profit on some items than others. The school system, after determining which are its high-profit items, may want to spend more time in merchandising or promoting these items. The school will want to limit the number of times expensive items are offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§539 Meal Equivalent Factor

A. SFAs may sell food items to individuals who have received a complete meal. Each school system that sells extra food items— including milk, juice, and bottled water— must establish a meal equivalent factor.

B. The meal equivalent factor for each SFA is defined as the average cost of the meal for the previous school year.

C. The meal equivalent factor is reported at the end of each fiscal year on the District Income and Expense Report. The meal equivalent factor will be used to convert the revenue received from extra items sold into meal equivalents. To calculate meal equivalents for the year, the SFA should divide the total income from extra sales for the year by the average meal cost (meal equivalent factor).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§541 Claim for Reimbursement

A. Each SFA shall submit a monthly Claim for Reimbursement in order to receive reimbursement for meals served. The Claim for Reimbursement/System Participation Data and Claim for Reimbursement/School Participation Data are forms used to report the claims data. The District Income and Expense Report shall be submitted by July 25 after the close of each fiscal year on June 30th. These forms and instructions are provided by the State agency. SFAs that wish to design their own claim forms shall obtain prior written approval from the State Agency to ensure that the order of reporting and the information being reported are correct.

B. Reimbursement Procedures

1. Federal Reimbursement for meals served to eligible students shall be paid at the current assigned rates and shall be paid only for lunches, breakfasts, and snacks meeting requirements. Reimbursement shall be made for only one lunch, breakfast, and snack served per child per day and cannot be made for any meals served to adults.

2. The State Agency must be contacted in advance regarding reimbursement for meals served for any days or extended summer sessions beyond the normal school year.

3. Participation data must be reported on the single calendar month basis: for example, if the SFA serves meals for fewer than ten days in August, it must submit a Claim for Reimbursement/System Participation Data and a Claim for Reimbursement/School Participation Data by September 10. Any corrections or revisions to the System Participation Data must be submitted along with the School Participation Data.

4. The Claim for Reimbursement system and school participation data shall be postmarked or submitted to the State Agency no later than 60 days following the last day of the month covered by the claim. Claims not postmarked and/or submitted within 60 days shall not be paid unless authorized by the State Agency. A one-time exception for late claim submission may be allowed by the State Agency every 36 months with proper written justification.

5. After the 60 day period, upward adjustments for underclaimed errors shall not be made unless authorized by the State Agency following a review or audit. Downward

adjustments for overclaimed errors shall always be made regardless of when the error is discovered.

6. A valid Claim for Reimbursement has not been submitted until the District Participation Data and the Claim for Reimbursement, School Participation Data have been accurately completed and received by the Division of Nutrition Assistance.

7. In submitting a claim, the authorized SFA representative shall certify that the claim is true and correct, that records are available to support the claim, and that payment has not been received. Reporting of income and expenditures shall be in accordance with the system of accounting established by the State Agency.

C. Claim for Reimbursement , District Participation Data,

The District Participation Data form shall be submitted by the 10th of the month following the month of operation. Monthly participation data from each school covered by the claim, including satellite schools, shall be reported on this form.

a. The total number of free, reduced price and paid student meals/snacks served at each school shall be reported.

b. The current number of free and reduced price eligibles as well as the number of days that meals/snacks were served shall also be reported. This form shall also report the total number of meals/snacks, by category, served in all schools under the jurisdiction of the SFA during the month of operation.

c. The District Participation Data form includes general data such as the number of schools/sites participating in the NSLP SBP, and snacks; the number of days that meals/snacks were served; the average daily student participation; the average daily student attendance; and the number of approved free and reduced price applications/direct certification determinations for the month of operation.

d. The form shall be resubmitted only if an error in the report submitted on the 10th has been discovered. In this event, the District Participation Data form should be resubmitted and the "Amended" box checked.

D. Edit Check

1. Prior to the submission of the monthly claim, an edit check of the number of free, reduced price and paid meals claimed must be performed to ensure the accuracy of data reported on the claim for reimbursement. Instructions to complete the edit check can be found on the instructions for the Daily Participation Report.

E. District Income and Expense Report

1. The District Income and Expense Report shall be submitted by the 25th of the month following the close of each fiscal year on June 30th. This form shall be used to report the total annual income and expenses for the SFA. Net cash resources shall also be reported on the District Income and Expense Report.

F. Income/Reimbursements

1. All income collected/received for the fiscal year (July-June) by the SFA shall be reported. All income from extra sales shall be separated from other payments so that the total number of meal equivalents may be calculated. The Federal Reimbursement earned and the State funds received for the fiscal year shall be reported. Any funds received from

loans to the school food service program during the fiscal year are reported as "Income."

G. Commodities Received

1. The value of USDA Commodities received during the fiscal year, the Federal Reimbursement earned, and the State funds received for the fiscal year shall be considered income and reported annually on the District Income and Expense Report. (Refer to the instructions on the District Income and Expense Report for guidance in reporting.)

H. Expenses

1. Food Used

a. The Cost of Food Used Worksheet is prepared monthly to calculate the actual cost of food used in every school that prepares food. At the close of each fiscal year, the cost of purchased food used in all schools for the fiscal year, the Federal Reimbursement earned, and the State funds received for the fiscal year shall be tabulated and reported as food used in the expense section of the District Income and Expense Report. The Cost of Food Used form and instructions are provided by the State Agency.

2. Labor and Benefits

a. Total expenses for labor to the school food service program for the fiscal year shall be reported in the fiscal year the expenses are incurred. SFAs must report on the June District Income and Expense Report, the July and August labor expenses for employees who earn salaries during the school year but who are paid over a 12 month period. An accounts payable ledger should be established to justify the payment of these wages during the nonoperational summer months. Administrative salaries earned and paid on a 12 month basis shall be reported in the month paid.

3. Equipment

a. The costs of equipment shall be reported as expenses in the fiscal year that the equipment is received and invoiced. Any outstanding invoices on equipment received will be reported as an expense in the fiscal year received, and encumbered as an accounts payable. These expenses include costs for both large and small equipment.

4. Loans

a. In the event the food service account must borrow operational funds from the General Fund to meet expenses, the repayment of this loan is an allowable expense. If the SFS does not have the financial resources to repay the loan within the same fiscal year, the SFS is no longer obligated to repay the general fund. (Refer to §501, "State Assistance," and §517, "Repayment of Loans.") Revisions should be made to the SFS account and the general fund accounting ledger to off-set the loan and to report it as an expense.

5. Other Direct Costs

a. The costs of utilities— such as gas, electricity, and telephone— are reported as expenses in the fiscal year they are invoiced. All other direct costs—such as utensils, paper, cleaning supplies, training expenses, etc.— are reported in the month the items are received or incurred. The State Agency recommends that these costs not exceed 20% of the total expenditures.

I. Reporting Refunds/Rebates

1. Student Refunds

a. Any unused prepayment for student meals is the property of the family/household making the payment.

b. The family must be notified of the unused meal prepayment amount and given an opportunity to collect the funds. The refunds for these student meals would be subtracted from income. If the family does not collect the refund, the meal prepayment may be carried forward to the next school year.

2. Product Rebates

a. A refund/rebate for a product should not be shown as income, but should be subtracted from the original cost of the item or the total purchases.

3. Reporting Thefts

a. The theft of money, USDA commodities, or purchased food, etc. should be reported immediately to the local law enforcement agency. The amount of money stolen should be reported on the District Income and Expense Report as "Other Direct Costs," and listed as "Theft." Any money recovered in the fiscal year that it was stolen shall be applied to the reduction of the loss. Any outstanding amount recovered in a subsequent year shall be reported in the fiscal year of recovery as "Other Income," and listed as "Recovery of Theft."

4. Net Cash Resources

a. The net cash resources of the SFA shall be reported on an annual basis each year on the Income and Expense Report. Residential Child Care Institutions should not complete this section of the Income and Expense Report. The purpose of this reporting is to ensure that the SFA maintains a nonprofit status. (Refer to §505, "Nonprofit Status/Net Cash Resources," for further information.) To calculate net cash resources, adhere to the procedures listed below.

i. Report any cash on hand in school cafeterias and/or the central office that has not been deposited.

ii. Add the latest reconciled operating-fund bank balance.

iii. Add the total value of investments including interest earned, in certificates of deposit, money market funds, etc.

iv. Add the total of any reserve accounts for self-insurance.

v. Add the total of any reserve accounts for equipment.

vi. Add the total of any accounts receivable such as outstanding reimbursement checks.

vii. Deduct from the subtotal any payables. Examples of payables are salaries earned during the nine months of operation but remaining to be paid during the summer and any unpaid bills for the current fiscal year. Unpaid telephone and utility bills are not reported as accounts payable because they are reported as expenses only when invoiced. Any item reported on the June Income and Expense Report as accounts payable shall also be reported in the appropriate category of the Claim for Reimbursement, System Data Report as an expense and shall not be reported on future claims.

viii. Total the value from all commodity invoices received during the fiscal year and report in the income section of the System Data Report.

b. As of June 30, the District Income and Expense Report may differ from the annual financial statements included in the general purpose financial statements of the school board. This difference is due to the fact that the

District Income and Expense Report is prepared using a method similar to cash flow, while the annual financial statement of the school board is prepared on a modified accrual or accrual basis of accounting.

c. The State Agency will verify net cash resources when audits are conducted. Adjustments will be made if necessary to reconcile these figures.

5. School Participation Data, SFS-8C

a. The School Participation Data Report shall be submitted by the 10th of the month following the month of operation. Monthly participation data from each school covered by the claim, including satellite schools, shall be reported on this form. The total numbers of free, reduced price and paid student meals/snacks served/at each school shall be reported. The number of currently approved free and reduced price meal applications/direct certification determinations and the number of days that meals/snacks were served are also reported. If any information submitted on the School Participation Data changes the Claim for Reimbursement, System Participation Data and an amended Claim for Reimbursement must be submitted along with the School Participation Data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§543 Severe-Need Breakfast

A. The USDA established severe-need funding for breakfast for schools serving a large percentage of needy students with the idea that the increased funding would permit the serving of more nutritious breakfasts. Severe-need funding is approved on a school-by-school basis; it is restricted to the cost of producing and serving breakfast. Within the SFA, some schools may be eligible to apply for severe-need funding and others may not.

B. SFAs may apply to receive severe-need funding for schools meeting the severe-need criteria. Additional recordkeeping will be required because each school approved must document breakfast expenses and must demonstrate that expenses equal or exceed the severe-need reimbursement received.

C. The State Agency shall pay the severe-need reimbursement rate throughout the school year to schools approved to participate. At the end of the school year, the SFA must provide documentation of breakfast expenses for each school approved. If expenses do not equal or exceed the severe-need reimbursement received, the SFA shall be required to return the excess reimbursement.

Each school claiming severe-need funding, at a minimum, must have breakfast expenses for free and reduced price meals for the year totaling the regular breakfast reimbursement.

1. Criteria for Application

a. Each school must meet the criteria provided below.

i. Forty percent or more of the lunches served to students during the second preceding year shall have been served free or at a reduced price.

ii. The reimbursement rate per meal established by the USDA is insufficient to cover the costs of the school's breakfast program.

iii. The school is participating in or desiring to initiate a breakfast program.

2. Application Form

a. Application for severe-need rates for schools already on the breakfast program must be made by August 15 of each school year. Application shall be made by completing the Application for Severe Need Breakfast Reimbursement, and submitting it to the Division of Nutrition Assistance. This form is available from the State Agency.

b. Application for severe-need rates for schools now eligible for severe-need breakfast programs may be made by completing Sections 4 and 16 of the Application for Participation. This application is available from the State Agency.

3. Documentation of Expenses

a. Each school approved for severe-need funding must document the actual yearly cost of producing and serving free and reduced price breakfasts on the documentation of Annual Breakfast Expenses for Severe Need Funding. This form is provided by the State Agency.

4. Food Cost

a. Food cost for breakfast may be established by one of the two methods listed below:

i. maintaining separate records for the cost of food used for breakfast throughout the school year; or

ii. during October, maintaining separate records for the cost of food used and calculating the percentage of breakfast food cost to total food cost for October. This percentage shall then be applied to the total food cost for that school for the year. This information shall be reported on the Severe Need Expense Allocation Worksheet.

5. Labor Cost

a. Labor costs, including benefits, are calculated on a per school basis; they are established by recording the amount of labor hours for breakfast in October. Each employee must document breakfast labor hours on the Employee's Time Allocation Report for Severe Need Breakfast, and, if applicable, the Employee's time Allocation Report For Severe Need Breakfast Inventory Duties,. The Employee's Time Allocation Report for Severe-Need Breakfast is an optional form to use in calculating the time spent on inventory for breakfast related duties.

b. The total hours for breakfast is calculated on the Severe-Need Expense Allocation Worksheet, to determine the percent of the total labor cost for the year. This form shall be provided by the State Agency.

6. Other Costs

a. Other costs shall be allocated to the breakfast program by applying the percent established for labor hours to the total other costs for the year. (Refer to the Severe-Need Expense Allocation Worksheet, and Documentation of Annual Breakfast Expense for Severe-Need Funding.)

7. Reimbursement Payments

a. For any school year, severe need reimbursement payments shall be the lesser of the following:

i. the cost of providing free and reduced price breakfasts in eligible schools less the reduced price payments received by such schools; or

ii. the number of free and reduced price breakfasts, respectively, served to children in eligible

schools, multiplied by the applicable severe need reimbursement rates.

b. Schools approved for severe-need funding shall file claims monthly on the District Data Report Form and will receive funding on a monthly basis. Documentation of each school's breakfast expenses for the year must be reported on the Annual Breakfast Expenses For Severe Need Funding and submitted with the June District Income and Expense Report. A separate Annual breakfast Expense for Severe-Need Funding form must be completed for each school.

c. Refund Payments for Excess Reimbursement

1. Refunds must be made to the State Agency for each school that did not have expenses equal to or greater than the severe-need funding received. Refunds shall be made on the difference between the severe-need reimbursement received and the greater of (1) the actual cost of producing free and reduced price breakfasts less the payment received for reduced price breakfasts, or (2) the regular breakfast reimbursement. A refund check payable to the LDOE in the appropriate amount must accompany the June Income and Expense Report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§545 Residential Child Care Institutions

A. Residential Child Care Institution (RCCIs) have the responsibility for the care and feeding of institutionalized children seven days per week including three meals plus snacks. RCCIs that operate on a continuing basis may receive reimbursement for eligible meals served any day that the institution has been approved to operate its services.

B. Expense Allocation

Because of the complexity of serving three meals per day plus snacks, certain modifications to recordkeeping and financial reporting must be made. Program expenses are allocated or prorated as described in §549, "Recordkeeping For RCCIs and Boarding Schools."

C. Severe-Need Breakfast

1. RCCIs meeting the severe-need criteria may apply for severe-need funding. RCCIs are required to meet the same eligibility criteria as public or nonpublic schools. Application shall be made by completing the Application for Severe-Need Breakfast Reimbursement and submitting it to the State Agency by July 1 of each school year. This form is available from the State Agency. (Refer to §543, "Severe-Need Breakfast," for eligibility requirements.)

2. RCCIs approved for severe-need funding shall receive the severe-need breakfast reimbursement rate throughout the school year. At the end of the school year, the RCCIs claiming severe-need must provide documentation of expenses for the breakfast program. If expenses do not equal or exceed the severe need reimbursement received, the RCCI shall be required to pay back the excess reimbursement, which is the difference between the severe-need reimbursement and the greater of (1) the cost of producing free and reduced price breakfasts or (2) the regular breakfast reimbursement.

3. RCCIs approved for severe-need funding shall be permitted to allocate expenses to the breakfast program. This approval is accomplished by the RCCIs completing the

Documentation of Annual Breakfast Expenses For Severe-Need Funding for RCCIs. This form shall be completed and submitted to the State Agency with the June claim for reimbursement. If excess reimbursement has been received, a repayment check made payable to the LDOE must accompany the June claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§547 Boarding Schools

A. Eligibility

1. Boarding Schools operating under public or nonprofit private ownership in a single building or complex of buildings are eligible to participate in the NSLP and SBP if they are exempt from tax under the Internal Revenue code as amended.

2. Boarding schools serving three meals per day, seven days per week, can claim reimbursement for only one lunch and/or breakfast per child served on regular school days, five days per week. If the weekend is considered an extension of the weekday educational activities, weekend meal reimbursement may be received if prior approval has been granted from the State Agency.

B. Expense Allocation

1. The same regulations that apply to public schools with regard to the operation of the NSLP and SBP also apply to boarding schools. However, because of the complexity of serving three meals per day plus snacks, certain modifications to recordkeeping and financial reporting must be made. Boarding schools shall follow the same procedures as RCCIs in recordkeeping. Program expenses are allocated or prorated as described in §549, "Recordkeeping for RCCIs and Boarding Schools."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§549 Recordkeeping for RCCIs and Boarding Schools

A. RCCIs and boarding schools shall follow a modified financial reporting and recordkeeping procedure in submitting Claims for Reimbursement. Monthly program expenses for reimbursable breakfasts, lunches, and snacks served five days or, if eligible, seven days per week can be allocated or prorated according to the monthly percentage of reimbursable meals to nonreimbursable meals. A daily participation report of all meals and snacks served shall be maintained as well as the number of reimbursable breakfasts, lunches and snacks served. The Expense Allocation Worksheet shall be used to allocate expenses to be reported on the Claim for Reimbursement, District Income and Expense Report. These forms are provided by the State Agency.

B. RCCIs and boarding schools must abide by the policies listed below.

1. Allowable/Nonallowable Expenses

a. The same policy on allowable/nonallowable expenses for the breakfast and lunch programs that apply to school programs shall apply to RCCIs and boarding schools. (Refer to, §517, "Allowable/Unallowable Program Expenses.")

2. Daily Food Production Form

a. Separate Daily Food Production Forms, for breakfast, lunch, and snacks shall be maintained.

3. Accountability of Meals/Snacks

a. There shall be a system to count and document the number of reimbursable meals/snacks served each day. In addition, the number of suppers, nonreimbursable snacks, and nonreimbursable breakfasts and lunches served must be recorded daily in order to allocate costs for the school food service program properly. These participation records are maintained on the RCCI Daily Participation Report.

4. Financial Accountability

a. RCCIs and boarding schools may keep a separate bank account for food service revenue and expenses. Since food and supplies must be purchased for suppers and nonreimbursable snacks/meals, some RCCIs and boarding schools may prefer to combine monies received and expended for the subsidized meals with the institutions' or schools' general funds. In such instances, separate cost centers for food service revenue and expenses shall be maintained. The records shall show that the expenditures for production and service of the subsidized breakfasts, lunches and snacks meet or exceed the reimbursement received for such meals.

5. Cost of Food Used

a. RCCIs and boarding schools may use purchased food invoices to obtain the cost of food used for the month of operation. This amount shall then be transferred to the Expense Allocation Worksheet, to allocate food cost to the school food service program.

6. Inventories

a. Any RCCI or boarding school that withdraws from a central warehouse must maintain a perpetual inventory of warehouse foods. (Refer to §523, "Costed Perpetual Inventory,")

7. Source Documents

a. RCCIs and boarding schools must abide by the same policies as school programs in relation to source documents. (Refer to §521, "Source Documents," for more information.)

8. Property Management

a. The same policies on property management of equipment purchased with program funds that apply to schools apply to RCCIs and boarding schools. (Refer to the §523, "Property Management Requirements" for more information.)

9. Retention of Records

a. The same policies on retention of records that apply to schools apply to RCCIs and boarding schools. (Refer to §527, "Retention of Records," for further information.)

10. Access to Records

a. The same policies relative to access of records that apply to schools apply to RCCIs and boarding schools. (Refer to §529, "Access to Records," for more information.)

11. Internal Control

a. Effective control over and accountability for all program funds, and for real and personal property assets shall be maintained. RCCIs and boarding schools shall adequately safeguard all such assets and shall ensure that they are used solely for authorized program purposes. (Refer to §531, Section 3.16, "Internal Control," for more information.)

12. Audit Requirements

a. RCCIs and boarding schools expending a total of \$300,000 or more a year in Federal funds for all programs shall have a single or program specific audit conducted in accordance with the provisions of Circular A-133. (Refer to §533, "Audit Requirements," for more information.) The cost for any audits performed of RCCIs or boarding schools in which total federal funds expended in a year are less than \$300,000 may not be paid from Federal school food service program funding.

13. Nonprofit Status

a. Residential Child Care Institutions

i. The nonprofit status of a residential child care institution is ensured when the cost of providing meals to eligible children equals or exceeds funding received by the program from Federal and/or State sources. (Refer to §505, "Nonprofit Status/Net Cash Resources," for further information.)

14. Boarding Schools

a. Boarding schools shall maintain a nonprofit school food service program; they must observe and follow the same limitations on the use of nonprofit school food service revenues as public and nonpublic schools. (Refer to §505, "Nonprofit Status/Net Cash Resources," for further information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§551 Resolution of Financial Obligations Established by Program Reviews, Audits, or Other Compliance Reviews

Fiscal Action. A School Food Authority that fails to implement corrective action as required in the State Agency's written notification after any compliance review shall be subject to the following:

All or a part of the SFA's school food service program payments will be withheld until adequate documentation of corrective action is received by the State Agency; or

Written notification to the SFA of required fiscal action, that will include:

the amount, and reason for any payment due to the State Agency as a result of the compliance review

the amount owed shall be extended back to the beginning of the school year or that point in time in the current school year when the infraction first occurred

the amount owed may extend back to previous school years, as applicable, based on the severity and longevity of the problem

the appeal procedures. (Refer to the Louisiana Administrative Code, Title 28 EDUCATION, Part I. Board of Elementary and Secondary Education, Chapter 9, Subchapter B. State Plans, §943. Louisiana Child Nutrition Program Regulations, B.2. Louisiana Child Nutrition Programs Appeals Procedures).

Fiscal action includes, but is not limited to, the recovery of overpayment through direct assessment to the SFA, withholding from future Claims for Reimbursement, submission of a revised Claim for Reimbursement, correction of SFA records to ensure that unfiled Claims for

Reimbursement are correct when filed, and disallowance of funds for failure to take corrective action.

B. Collection Procedures. All unpaid financial obligations that are assessed to a school food authority by the State Agency will be referred to the Louisiana Department of Justice (DOJ), Attorney General for collection, unless a satisfactory repayment schedule has been approved by the State Agency and payments are current.

1. All accounts referred to the DOJ Collections Section shall be subject to collection fees of thirty-three and one-third per cent (33 1/3%) in addition to the unpaid obligation due at the time of payment.

2. Once referral of an unpaid obligation is made to the DOJ, there will be no negotiation with the State Agency. All future correspondence related to the unpaid obligation will be with the DOJ Collections Section.

C. Resolution of SFA financial obligations will occur upon full repayment to the State Agency and/or all collection fees due the DOJ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

Chapter 7. Free and Reduced Price Meals §701. Purpose

A. School Food Authorities (SFA) participating in the National School Lunch and Breakfast Programs and utilizing USDA commodities are required to serve free and reduced price meals to students determined eligible by the current Income Eligibility Guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§703. Policy Statement. Requirements for a Pricing Program

1. A pricing program is one in which a separate identifiable charge is made for meals served to participants. A permanent policy statement setting forth conditions for serving free and reduced price meals is entered into between the SFA and the State Agency. The documents listed below are part of the permanent agreement; they must be maintained, updated and submitted to the State Agency when adjustments or amendments are made and when requested by the State Agency.

a. a public release/announcement to the community of the SFAs meal prices for the upcoming school year and the intent to offer free and reduced price meals to eligible students;

b. income eligibility guidelines for the current school year and other documents or provisions that contain the eligibility criteria for free and reduced price benefits;

c. the free/reduced price application form with instructions (Single or Multi-child application);

d. the letter to households regarding application for benefits;

e. the direct certification notice, if applicable;

f. a copy of the notification letter to households regarding application for benefits (Meal Benefits Notice);

g. the collection procedure and accountability statement;

h. changes in approved collection procedures and/or collection procedures for new schools, if applicable;

i. the notice of selection for verification and other forms of supporting documentation to assist in verification which include the following:

- i. acceptable verification documents;
- ii. social security numbers;
- iii. a letter for food stamp/Family Independent Temporary Assistance Program (FITAP) office to complete;
- iv. a letter for social security office to complete;
- v. a letter for employer to complete;
- vi. letter for Social Security Office to complete;
- j. the Benefit Change/Termination Notice;
- k. the SFA letter to FITAP Office;
- l. the SFA Guidance/Acceptable Income

Documentation to assist household selected for verification in gathering income information;

m. verification documentation results;

n. verification summary report;

o. the applicable School Meals Initiative Option(s) for the current school year and applicable attachments demonstrating lunch/breakfast/snack patterns and Nutrient Standards;

p. the Authorized Representatives of the SFA;

q. the Warning Statement of Criminal Provisions and Penalties; and

r. changes made necessary by law/regulations.

2. A copy of the approved Free and Reduced Price Policy Statement shall be kept on file in the central office of the SFA. All personnel responsible for the administration and supervision of the program must be thoroughly familiar with the policy statement to ensure compliance with program regulations. In fulfilling its responsibilities, each pricing SFA

a. agrees to serve meals free to children from families whose income is at or below the free scale of the Income Eligibility Guidelines;

b. agrees to serve meals at a reduced price to children from households whose income is at or below the reduced price scale of the Income Eligibility Guidelines;

c. agrees that there will be no physical segregation of or any other discrimination against any child because of inability to pay the full price of the meal; the names of the children eligible to receive free or reduced price meals shall not be published, posted, or announced in any manner; and there shall be no overt identification of any such children by use of special tokens, tickets or any other means. Further assurance is given that children shall not be required to do the following:

- i. work for their meals;
- ii. use a separate dining room;
- iii. go through a separate serving line;
- iv. enter the cafeteria through a separate entrance;
- v. eat meals at a different time, or eat a different meal;

d. agrees to maintain an up to date master list of all children eligible for free and reduced price meals; this master list must be retrievable by school; the following information must be retrievable by student: approval date, transfer, drop and change in status date;

agrees to set reduced price charges for lunch and breakfast at or below the maximum reduced price allowed by

regulations and below the full price of the lunch or breakfast;

f. agrees that the information provided by the household is confidential and will be used only for purposes of determining eligibility and verifying data;

g. agrees that in the operation of child feeding programs, no child shall be discriminated against because of race, sex, color, national origin, age, or disability and agrees to have on file procedures for handling discrimination complaints;

h. agrees to designate a school official to review applications and make determinations of eligibility. Such official will use the criteria outlined in the eligibility guidelines (Refer to §705, "Application Process.");

i. agrees to establish and use a fair hearing procedure under which a family can appeal a decision made by the SFA with respect to the child's free and reduced price meal application; the SFA can challenge the continued eligibility of any child for free or reduced price meals. During the appeal and hearing, the child, who was determined to be eligible based on the face of the application submitted, will continue to receive free or reduced price meals; prior to initiating the hearing procedure, the school official(s), the parent(s), or guardian(s), may request a conference to discuss the situation, present information, and obtain an explanation of data submitted on the application and the decisions rendered; such a conference shall not in any way prejudice or diminish the right to a fair hearing; the designated hearing official must be someone who is not involved in the original eligibility determination in any way, such as advising or answering questions for the approving official. It is suggested that this person hold a higher position than the determining official; the hearing official for the free and reduced application procedure and the hearing official for verification must be the same person; the hearing procedure shall provide the following for both the family and the SFA:

i. a publicly announced, simple method for making an oral or written request for a hearing;

ii. an opportunity to be assisted or represented by an attorney or other person;

iii. an opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

iv. a hearing scheduled with reasonable promptness and convenience, with adequate notice of its time and place;

v. an opportunity to present oral or documentary evidence and arguments supporting a position without undue interference;

vi. an opportunity to question or refute any testimony or other evidence and to confront and cross examine any adverse witness(es);

vii. a hearing that is conducted and a decision made by an official who did not participate in the decision under appeal or in any previous conference;

viii. a decision of the hearing official based on the oral documentary evidence presented at the hearing and entered into the hearing record;

ix. notifications in writing of the decision to the parties concerned and any designated representative;

x. a written record for each hearing which includes the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official and the reasons therefore, and a copy of the notification to the parties concerned of the hearing official's decision.

j. agrees to retain such written records for a period of three years after submission of the final Claim for Reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed. These records must be made available for examination by the parties concerned or their designees at any reasonable time and place during such period;

k. agrees to develop and distribute a letter/notice to each child's parent(s) or guardian(s); an application with instructions and a letter to households shall be distributed at or about the beginning of each school year or whenever there is a change in eligibility criteria; households that have been directly certified will be notified of their eligibility; the letter and the application that are sent to parents shall have only the Income Eligibility Guidelines for reduced price meals with an explanation that households with incomes at or below the reduced price guidelines may be eligible for either free or reduced price meals;

i. Applications may be submitted and filed at any time during the year. Parent(s) or guardian(s) enrolling a child in a school for the first time shall be supplied with appropriate application materials regardless of the time of year the child is registered. If a child transfers from one school to another under the jurisdiction of the same SFA, eligibility will be transferred to and honored by the receiving school

ii. If no other income is listed, a multi-child application that lists a valid FITAP case number should be approved free for all students listed on the application. If a higher income is listed that would change the eligibility status of the other children, then the SFA must investigate before making an eligibility determination for those children. Parent(s) or guardian(s) will be promptly notified of the acceptance or denial of their application(s).

iii. In certain cases, foster children are also eligible for free or reduced price meals regardless of the income of the household with whom they reside. If a household has foster children and wishes to apply for such meals, the household should complete the application as indicated for a foster child.

iv. When an application is rejected, parent(s) or guardian(s) will be provided written notification that shall include the following elements:

(a.) the reason for the denial of benefits: e.g., income in excess of allowable limits or an incomplete application;

(b.) notification of the right to appeal;

(c.) instructions on how to appeal; and

(d.) a statement reminding parents that they may reapply for free and reduced price benefits at any time during the school year.

v. The reasons for ineligibility shall be properly documented and retained on file.

vi. Interested parent(s) or guardian(s) are responsible for completing the application and returning it to

the school for review. Such applications and documentation of determinations made will be maintained for a period of three years after submission of the final Claim for Reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

l. agrees to submit a public release containing both the free and reduced price Income Eligibility Guidelines and all other information outlined in the letter to households to the local news media, local unemployment offices and major employers contemplating or experiencing large layoffs;

m. agrees to establish a procedure to collect money from children who pay for their meals and to count by category at the point of service the number of free, reduced price and full-price meals. The procedure used must avoid overt identification; overt identification means any act that openly identifies children as eligible for free or reduced price benefits in the Child Nutrition Programs.

n. agrees to submit to the LDOE any alterations of documents or procedures before implementation; such changes will be effective only upon approval;

o. agrees to (1) verify eligibility for free and reduced price meals regulations, (2) complete the verification process by December 15 of each year, (3) maintain a summary of the verification efforts that indicates the total number of applications on file October 31, the percentage or number of applications verified, techniques used, documentation submitted by Households, documentation of any changes in eligibility and reasons for changes, and all relevant correspondence with Households.

B. Requirements for a Nonpricing Program

1. A nonpricing program is one in which there is no separate identifiable charge made for meals served to participants. The documents listed below are part of the permanent agreement; they must be maintained, updated and submitted to the State Agency as requested by the State Agency and when adjustments or amendments are made.

a. A copy of the current license, if private;

b. Income Eligibility Guidelines for Free and Reduced Price meals;

c. The Collection Procedures and Accountability Statement;

d. Changes in approved collection procedures and/or collection procedures for new schools, if applicable;

e. The applicable School Meals Initiative Option(s) for the current school year and applicable attachments demonstrating lunch/breakfast/snack patterns and Nutrient Standards;

f. The Authorized Representatives of the SFA;

g. The Warning Statement of Criminal Provisions and Penalties;

h. Changes made necessary by law or regulations.

2. In fulfilling its responsibilities, each nonpricing SFA shall

a. agree to claim as free meals only those meals served to children from families whose incomes are at or below that listed for free meals in the Income Eligibility Guidelines; an institutionalized child who resides in a residential type facility that the State has determined is not a boarding school is considered to be a household of one; only income a child earns from employment and/or personally

receives while in residence at the institution may be considered as income;

b. agree to maintain documentation on file for three years after submission of the final Claim for Reimbursement for the fiscal year. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

c. agree that there will be no physical segregation of or any other discrimination against any child; the names of the children for whom free or reduced price meals may be claimed shall not be published, posted, or announced in any manner, and there shall be no overt identification of any such children by any means; further assurance is given that children shall not be required to do the following:

- i. work for their meals;
- ii. use a separate dining room;
- iii. go through a separate serving line;
- iv. enter the cafeteria through a separate entrance;
- v. eat meals at a different time, or eat a different meal;

d. agree that, in the operation of child nutrition programs, no child shall be discriminated against because of race, color, national origin, age, sex, or disability; the central office will have on file a procedure for handling discrimination complaints;

e. agree to designate a school official to make the determination of eligibility; such official will use the criteria outlined in the Eligibility Guidelines;

f. agree to establish a procedure to count by category at the point of service the number of reimbursable meals;

g. agree to keep on file, where a school food service program is in operation, a master list indicating the name, date of birth, income, and eligibility category of all children; the date the child entered the school or institution and the date the child withdrew from enrollment must be included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§705. Application Process

A. Benefits Prior to Processing Application

1. Prior to the processing of applications for the school year, free and reduced price meals may be served to the following:

a. children from households with approved applications on file from the previous year;

b. new children in a SFA whose names are listed on an application from the previous school year; they may be extended the same approved benefits as their siblings, except that direct certification cannot be extended to a sibling; and

c. previously approved children who transfer from one school to another or from another SFA.

2. If the applications are not maintained in the central office, the school from which the student transferred shall retain a copy of the student's application on file and the original application shall be transferred with the child. Local officials may wish to develop a cooperative transfer system between the private schools and the public school system within the same parish or city to provide eligibility information for students transferring between these schools.

3. A SFA may, if desired, use a properly approved free and reduced price application obtained in the current school year by another SFA in the event a family moves during the school year or changes from one SFA to another for whatever reason. The application may be used for the remainder of the school year (Refer to USDA memo 96-SP-39.)

Applications from a prior year are valid for the first 30 operating days or less of the new school year as determined by the local SFA.

5. Early childhood education, pre-kindergarten, and kindergarten students are not included in the previous year's enrollment; therefore, local school officials are encouraged to distribute a free/reduced application during the early "round-up" enrollment for processing prior to the first day of school and for use during the first 30 operating days of the new school year. New applications will need to be distributed upon the first day of school.

B. Types of Applications

1. Single Child Application

a. The single child application is designed to accommodate only one child in a household. Therefore, the SFA must have a valid application on file for each student that received a meal that is claimed for Federal Reimbursement at the free or reduced price rate. However, students who have been directly certified and those students in nonpricing programs are not required to submit an application.

2. Multi-Child Application

a. The multi-child application, which was developed to accommodate more than one child in the household, must provide space for identifying each child separately as a member of a food stamp household or FITAP assistance unit. (Contact the State agency for information regarding FITAP or Food Stamp Numbers.) This identification is necessary because of the possibility of mixed households in which some children may be part of a food stamp household or FITAP and some may not. However, a single Food Stamp or FITAP number is sufficient to establish categorical eligibility for the household. Schools using the multi-child application must require the household to submit a separate application for each foster child.

3. Foreign Language Application

a. Where a significant number or proportion of the population eligible to be served in the SFA needs information in a language other than English, SFAs must make reasonable efforts, considering the size and concentration of such population, to send appropriate non-English language household letters/notices and application forms to such households. (Contact the State Agency for foreign language applications.)

4. Application Approval Deadline

a. The application process must be completed no later than 30 operating days from the first day of school. This process includes the distribution of applications and letters to the parent, the return of the application, eligibility determination, and notification to the parent. Within this timeframe, applications should be reviewed and parents notified of the eligibility determination as soon as possible, but no later than 10 operating days after receipt of the application.

D. Complete Application for Various Types of Students.

1. The household must provide all the required information on the application for the application to be considered complete. Any other information requested on the application but not provided by the household must not delay processing of the application.

2. SFAs with computer approved free/reduced priced meal applications are not required to have the signature of the determining official on the application.

3. The following information must be provided by the household before an eligibility determination can be made:

a. Emancipated Student

i. An emancipated child who lives alone or as a member of a household with no adult household members must sign his or her own application. No social security number is required, since the emancipated child is not an adult.

b. Student Living with in a Food Stamp Household/FITAP Household Assistance Unit

i. In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with a household in which he/she is not a member of the family, the child is considered to be a member of the household with whom he/she resides. If the household receives Food Stamps or if other children in the household receive FITAP benefits, the single Food Stamp or FITAP number provided on the application would qualify the student living in the household for free meals. If neither Food Stamp nor FITAP benefits are received by any single person in the household, the application must include all the information required as outlined in section 705(D)(g) Income Households. Food stamp benefits are not counted as income.

c. Foster Child

i. Application is made for a foster child using the same application that is used for other students. The exception is that the foster child section of the application is to be completed and the foster parent or other official must sign. The foster child is a household of one; therefore, other household members are not shown on the application.

d. Food Stamp Households/FITAP Households

i. Applications for children receiving food stamps or FITAP benefits must contain the following elements:

- (a.) the name of the child,
- (b.) the child's food stamp or FITAP case number, and
- (c.) the signature of an adult household member.

e. Homeless Students

i. To accommodate homeless children whose parent(s) or guardian(s) neglect to complete a free/reduced price meal application, SFAs may use one of the following procedures:

(a.) The director of the homeless shelter may complete an application for the child. The SFA may complete an application for the child.

(b.) The SFA may complete an application for a child and approve the child for free meals based solely on their knowledge that the child's address is a homeless shelter or that the child has no known address and is indeed homeless.

ii. When a list is used to document eligibility, it must be updated as changes occur. Documentation to

substantiate free meal eligibility must consist of the following information:

- (a.) child's name;
- (b.) date added;
- (c.) residence (shelter, etc.);
- (d.) signature of determining official; and
- (e.) date of withdrawal from the school.

f. Disaster Victims

i. In cases in which a household from a designated disaster area moves in with another household that lives in that city, another city or another state, only the household size and income from that household in crisis would be included in the eligibility determination. The household size and income from the host family need not be included on the application or otherwise considered in the eligibility determination.

ii. SFAs should review eligibility determinations made under these crisis procedures every 45 days to evaluate the household's circumstances.

g. Income Households

i. The following information is required to determine eligibility on applications received from other households:

- (a.) the names of all household members;
- (b.) the amount of monthly income received by each household member identified by source, such as wages, welfare, and alimony;
- (c.) the signature of an adult household member;

and

(d.) the social security number of the household member who signs the application or an indication that the household member that signs the form does not have one.

E. Incomplete Application

1. If any required information is missing, the information must be obtained before an eligibility determination can be made.

2. The application may be returned to the household or the household may be contacted by telephone or in writing to get the information. The SFA must document the details of the contact, enter the information received on the application, date and initial the entry. However, if the application is missing the signature of the adult household member, the application must be returned to the household. In signing the application, the household member is certifying that the information is true and correct. Every reasonable effort should be made to obtain the missing information prior to denying the application.

F. Inconsistent Application

1. If there are inconsistencies or any questions concerning the information provided, the household should be contacted for clarification prior to the approval or denial of the application. When the contact is made, the caller should record his/her initials, date, and time the call was placed, the name of the person with whom the caller spoke, and any information conveyed in the conversation.

G. Eligibility Determination

1. Categorical Eligibility

a. Children who are currently receiving food stamps or FITAP benefits are categorically eligible for free meal benefits. The application must contain the child's name, a valid food stamp or FITAP case number, and the signature of an adult household member.

2. Income Eligibility

a. Households that do not claim categorical eligibility must provide household size and income information. If the total reported income for the household is within the eligibility limits, the child is eligible for either free or reduced price meals.

3. Valid Food Stamp/FITAP Case Number and Income Information

a. Since children receiving food stamp/FITAP benefits are categorically eligible to receive free meals, income information, if provided, does not apply. The eligibility determination must be based on the food stamp/FITAP case number only.

H. Direct Certification

1. SFAs are able to implement direct certification of children from food stamp/households under the Child Nutrition Programs. Direct certification allows SFAs to certify children as eligible for free meals or free milk based on documentation obtained directly from the Food Stamp Office.

2. Instructions regarding the procedure for direct certification will be provided by the State Agency. SFAs must follow State Agency instructions prior to implementing eligibility determinations based on direct certification. Documentation for those children certified as eligible by direct certification must include the following elements:

- a. the name of each child from households currently certified to receive food stamps;
- b. each child's date of birth;
- c. the social security number that matches the name and date of birth of the child certified as receiving food stamp or FITAP benefits; and
- d. official correspondence that outlines procedures to submit school data for direct certification.

3. The Division of Planning, Analysis, and Information Resources will provide SFAs with an electronic file that identifies Louisiana Educational Authority (LEA) enrolled students in their file who can be matched with the school's file using the student's first name, social security number and date of birth. Identified also are those students who match on social security number in both their file and the school's, but the name and the birth date are different. If the SFA chooses to extend benefits to students not matching on all three factors, documentation must be available to indicate that children receiving food stamps are the same children identified in the school system records. Failure to have the required information could result in disallowance of meals and recovery of reimbursement during a review or audit. If documentation is not available, a free and reduced price meal application must be issued to establish eligibility for that student. Documentation, as described, must be retrievable by the school.

4. Letters/notices and applications must be distributed to households of all children at the beginning of the school year to prevent overt identification and to ensure that no child is inadvertently excluded from participation.

5. The notice to households must advise them that their child/children is/are eligible for free meals or free milk, as appropriate, and that no further application is required; that the households should notify the school if they do not want their children to receive free benefits; and that the

households must notify the school when they are no longer certified to receive food stamp benefits.

6. SFAs that implement direct certification are not required to send the letter/notice and application to those households eligible under direct certification if these materials are distributed through the mail, individual student packets, or other method that prevents the overt identification of children eligible for direct certification. Under this option, households eligible under direct certification will receive a letter notifying them that their children are eligible for free benefits. Other households will receive a parent letter or notice with an application form.

I. Computing Current Income

1. If current income is reported other than monthly, the following formulas can be used to achieve the desired income quantification:

- a. monthly income;
 - i. weekly income x 4.33;
 - ii. bi-weekly income (every two weeks) x 2.15;
 - iii. semi-monthly income (twice a month) x 2.
- b. annual income;
 - i. weekly income x 52;
 - ii. bi-weekly income (every 2 weeks) x 26;
 - iii. semi-monthly income (twice a month) x 24.

J. Zero Income, Temporary Reduction in Income

1. When there is a temporary reduction in income or zero income, eligibility should be determined on the present rate of income rather than on regular annual income. Temporary approval should be granted for a 30 day period. Parents must reapply for any extension of eligibility. If the income is still subject to change, a new temporary approval should be issued. The temporary approval is no longer valid after 30 days, unless updated.

2. Temporary approvals should be issued for eligible children for the following types of economic situations:

- a. seasonal unemployment;
- b. temporary layoffs;
- c. strikes or voluntary work stoppage;
- d. temporary usage of public assistance, in cases in which the application specifies receipt of public assistance for a limited time; and/or
- e. zero income, for whatever reason. However, zero income on an application for a foster child or institutionalized child is acceptable and may be approved for the school year.

3. The SFA should accept and approve zero applications at "face value"; however, the application can then be placed into the verification process, where the SFA should request documentation as deemed appropriate. Verification guidance suggests that households that indicate zero income should provide a brief note on how they provide food, clothing, and housing, and when the household expects income. If the information is not acceptable, school officials may terminate the household. Like all adverse action situations in the free and reduced price eligibility process, the terminated family must be afforded the right to a fair hearing. Verification of zero income applications would be in addition to the number of applications required under Random or Focused Verification methods. At the SFAs discretion, an application with zero income may be verified.

K. Household Failure to Apply

1. Local school administrators may complete an application for a student known to be needy if the household fails to apply. When exercising this option, the school official must complete an application on behalf of the student based on the best household size and income information available and then make an eligibility determination. The source of the information must be noted. Social security numbers and names of household members need not be secured; these applications may be excluded from verification. The household must be notified that the student has been approved and is receiving free or reduced price meal benefit. This option, which is intended for use in individual situations, does not allow eligibility determinations for categories or groups of children; however, this option does not apply to children in homeless shelters.

L. Citizenship

1. U.S. citizenship is not a factor in the determination of eligibility. An eligibility determination is based on household size/income or the receipt of food stamps/FITAP for the child as reported on a completed application.

M. Notification of Eligibility or Denial

1. All households must be notified of their eligibility status. Households denied benefits must be given written notification of the reason for denial and appeal rights and procedures. The households must also be advised that they may reapply at any time during the school year if their circumstances change.

N. Reporting Changes in Household Circumstances

1. A household approved for benefits based on income must report increases over \$50 per month or \$600 per year and any decreases in household size. When a household reports such changes, the SFA shall review the information, make any appropriate change in eligibility, and notify the household. A household that provided a food stamp or FITAP case number to establish eligibility for free benefits must report termination of benefits for the student under the Food Stamp or FITAP Programs. A household reporting such a change and wishing to continue benefits for the student must complete a new application and provide household size/income information.

O. Changes in Eligibility after the Initial Approval Process

1. Changes in eligibility resulting in increased benefit levels shall be made as soon as possible but no later than three operating days from the date the SFA makes the final decision on a child's eligibility status. All households for whom benefits are to be reduced or terminated must be given ten (10) calendar days written advance notice of the change. The first day of the advance notice period is the day the notice is sent. When a household appeals a reduction or termination of benefits within the ten (10) calendar day advance notice period, the SFA must continue to provide the benefits for which the child was originally approved until a final determination is made. When a household does not appeal a reduction or termination of benefits during the ten (10) calendar day advance notice period, the actual reduction or termination of benefit must take place within ten (10) operating days after the ten (10) day advance notice period.

P. Appeals

1. A household may appeal the denial of its application or the level of benefits for which it has been

approved. The hearing procedures outlined in the SFA's Free and Reduced Price Policy Statement must be followed.

Q. Recordkeeping

1. The determining official should indicate the date the application is approved and sign the application. When an application is denied, the reason for the denial must be noted, dated, and kept on file. Records should also include the date the denial notice is sent and the name of the determining official. This information may be noted directly on the application. When a student's eligibility changes or a student transfers to another school, the date of change or transfer shall be noted. Computer approved applications are not required to have a signature of the determining official.

2. Applications may be maintained either at the school or at a central location with a master list of eligible students maintained at the school. If the SFA chooses to maintain applications at a central location, applications must be retrievable by the school. The SFA must ensure that changes in eligibility status and transfers are accurately recorded and dated on each school's master list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§707. Determining Household Size

A. The following information provides guidance in making household size determinations.

1. A household (family) is a group of related or unrelated individuals who are not residents of an institution or boarding house but who are living as one economic unit.

2. An economic unit is a group of related or unrelated people who share housing and/or all significant income and expenses of its members. Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.

3. A household of one (a one-person household) is an emancipated child living alone or as a separate economic unit, a foster child, and/or an institutionalized child.

B. Categorically Eligible

1. A child for whom food stamps/ FITAP is received is automatically eligible for free meals when the household provides a current food stamp/FITAP case number on the application.

C. Students Away at School

1. Students who are temporarily away at school—such as students attending boarding schools or colleges— should be counted as members of the household.

D. Military Families. Military personnel on shore duty living with the household or away on Temporary Duty (TDY) are considered household members. Military personnel serving overseas or assigned to a military base and not living with the household for an extended period of time are not considered members of the household for purposes of determining eligibility. Any money sent to the household by the military is to be included as income.

E. Foster Child

1. A foster child is a child who is living with a household but who remains the legal responsibility of the welfare agency or court. Such a child is considered a

household of one. Income received by the child for personal use should be recorded in the income column. If income is not received on a regular basis, the SFA should record "0" in the income column. Foster children are not categorically eligible unless FITAP or food stamp benefits are received for them.

F. Child Living with One Parent, Relatives, or Friends

1. In cases in which no specific welfare agency or court is legally responsible for the child, or in which the child is living with one parent, other relatives, or friends of the family, the child is considered to be a member of the household with whom he/she resides; and the size and total income of that household is used to determine the child's eligibility.

G. Adopted Child

1. An adopted child for whom a household has accepted legal responsibility is considered to be a member of that household. Therefore, the household's size and total income are considered in the eligibility determination.

H. Institutionalized Child

1. An institutionalized child is a child that resides in a residential-type facility that the State has determined is not a boarding school. Such a child is considered a household of one.

I. Student Attending an Institution

1. A student who attends, but does not reside in, an institution is considered a member of the household in which he/she resides.

J. Emancipated Student

1. A student living alone or as a separate economic unit is considered a household of one. Therefore, only the student's income is considered for eligibility purposes.

Boarding School Student

1. A student in a boarding school is considered a member of the household in which he/she normally resides. Therefore, household size and total household income are considered in the eligibility determination.

L. Foreign Exchange Student

1. A foreign exchange student is considered a member of the household in which he/she resides. Therefore, the household size and total household income are considered in the eligibility determination.

M. Joint Custody Student

1. A joint custody student is one who is a member of more than one household. If the households, have different economic status, as determined by the Income Eligibility Guidelines, the eligibility status changes when the student's residence changes. If the economic units are comparable, a status change is not necessary.

2. If the SFA determines that the changes in economic units are too frequent and to the detriment of the student, the SFA may use the income from the economic unit that is most advantageous to the child. This procedure may be used in situations in which the student's residence changes frequently such as weekly or biweekly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§709. Determining Income

A. Reportable Income

1. Income to be reported on the non-categorically eligible household's application is any money received on a recurring basis, including gross earned income. Specifically, gross income means all money earned before deductions such as income taxes, employee's social security taxes, insurance premiums, and bonds. The following types of income are classified as reportable income:

- a. payment of money for services, including wages, salary, commissions or fees;
- b. social security benefits;
- c. supplemental security income (SSI);
- d. public assistance/welfare payments (FITAP);
- e. alimony or child support payments;
- f. unemployment compensation;
- g. government civilian employee or military retirement or pension;
- h. veterans' payments;
- i. private pensions or annuities;
- j. regular contributions from persons not living in the household;
- k. net income for self-employed farmers and business persons, rental income and royalties;
 - l. dividends or interest on savings or bonds; income from estates or trusts;
 - n. other cash income, including cash amounts received or withdrawn from investments, and/or trust accounts; and
 - o. other resources that would be available to pay the price of a child's meal.

B. Income Exclusions

1. The following types of income, which are not classified as reportable income, are considered income exclusions.

- a. Income not to be reported or counted includes any cash income or value of benefits a household receives from any Federal program that excludes such income by legislative prohibition, such as the value of food stamps, and child care grant programs,
- b. Student financial assistance, such as grants and scholarships, awarded to meet educational expenses is not considered as income. Examples of this assistance include Pell Grants and Supplemental Educational Opportunity Grants.
- c. Loans, such as bank loans, are not considered as income, since these funds are only temporarily available and must be repaid.
- d. The value of in-kind compensation allowances—such as military base housing or other subsidized housing, medical and dental services—are not counted as income.
- e. Occasional earnings received on an irregular basis or not recurring, such as for occasional baby sitting or mowing lawns, are not considered as income.

C. Current Income

1. Current income means income received by the household during the month prior to application and multiplied by 12 to reflect annual income, except for the following income as described in D. through M.

D. Projected Income for Seasonal Workers and Others

1. Current income is usually the income received during the month prior to application, multiplied by twelve. If such income does not accurately reflect the household's annual income, income should be based on the household's

projected annual income. For example, income reported by a seasonal worker employed during the month prior to application may not accurately reflect the household's annual income; therefore, seasonal workers may report their projected annual income as their current income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

E. Self-Employment Income

1. Self-employed persons may use last year's income as a base to project current year's net income, unless their current monthly income provides a more accurate measure.

2. Self-employed persons report net income rather than gross income. Net income for self-employment is figured by subtracting deductible business expenses from gross receipts.

a. Gross receipts include the total value of goods sold or services rendered by the business.

b. Deductible business expenses include the cost of goods purchased, rent, heat, utilities, depreciation charges, wages and salaries paid, and business taxes but not personal Federal, State or local income taxes.

3. The value of saleable merchandise consumed by the proprietors of retail stores is not included as part of net income.

F. Farm Income

1. Net income for self-employed farmers is figured by subtracting the farmer's operating expenses from the gross receipts.

Gross receipts include the value of all products sold; money received from the rental of farm land, buildings or equipment to others; and incidental receipts from the sale of items such as wood, sand, and gravel.

3. A farmer's operating expenses include cost of feed, fertilizer, seed and other farming supplies; cash wages paid to farmhands; depreciation charges; cash rent; interest on farm mortgages; farm building repairs; and farm taxes but not State and Federal income taxes.

G. Income Losses From Self-Employment

1. In a household in which there is income from wages and self-employment, income from wages may not be reduced by business losses. If income from self-employment is negative, it should be listed as zero income.

H. Income Losses From Bankruptcy

1. If a family has declared bankruptcy and a portion of the family's current income is being garnished, the amount being garnished is not deductible. The family's total gross income must be used in determining eligibility.

I. Military Income/Benefits

1. Military benefits received in cash, such as housing allowances for military households living off base and food allowances, must be considered as income. However, the value of in-kind benefits other than cash, such as on-base housing, is not considered as income.

J. Income for Foster Children

1. Only the following funds should be considered in determining income for the foster child:

a. Funds provided by the welfare agency, which are specifically identified by category for personal use of the child – such as for clothing, school fees and allowances – are considered income. Welfare funds identified by category for shelter and care, and those identified as special needs funds

such as those for medical and therapeutic needs are not considered as income. If welfare funds cannot be identified by category, no portion of the provided funds is considered as income.

b. Other funds received by the child, including, but not limited to, monies provided by the child's family for personal use and earnings from employment other than occasional part-time jobs are considered income.

K. Income for Institutionalized Children

1. Payments from any source directly received by the institution in a child's behalf are not considered as income to the child. Only income a child earns from full time or regular part-time employment and/or personally receives while in residence at the institution may be considered as income.

L. Student Income

1. The earnings of a student employed full-time or part-time must be listed on the application. However, occasional earnings, such as babysitting, should not be listed on the application.

M. Alimony and Child Support

1. Any monies received by a household in the form of alimony or child support are counted as income. However, any monies paid for alimony or child support may not be deducted from a household's reported gross income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§711. Program Operations

A. Nondiscrimination

1. There must not be any discrimination of children receiving free and reduced price benefits.

2. The names of the children must not be published, posted or announced in any manner.

3. The children must not be required to work for their meals.

4. The children must not be required to use a separate dining room, separate serving line, or separate time, etc.

5. There must not be any overt identification of any of the children by use of special tokens or tickets. The SFA must use the collection procedure approved as part of its Free and Reduced Price Policy Statement.

6. There must not be any discrimination on the basis of race, color, national origin, age, sex, or disability in the application approval process or in the selection of applications for verification.

B. Prohibition Against Denying Meals to Children as a Disciplinary Action

1. Regulations prohibit the denial of free, reduced price, or paid meals as disciplinary action to any child in attendance at school. This prohibition does not extend to the denial of meals for failure to pay. Denying meals to students for disciplinary reasons associated with disruptive behavior in the cafeteria, selling free meal tickets, etc., is prohibited under Federal Regulations. Disciplinary action used for other unacceptable behavior could be applied in these situations.

C. Denying Meals to Students for Failure to Pay

1. The SFA is not obligated to continue providing meals without receiving payment. The students' ability to pay is determined through the free and reduced price meal

application process. Those students not eligible for free meals must pay for their meals at the prices established for full price and reduced price students. Regulations do not prohibit a school system from denying a meal to paying students who have not paid for the meal.

D. Handling Lost, Stolen, and Misused Meal Tickets

1. SFAs may establish procedures to limit the number of times replacement tickets or special meal arrangements must be provided to needy students who report lost or stolen meal tickets. The term ticket refers to any and all forms of exchange used, including paper tickets, cards, coins, or tokens. It should be noted that, when handling instances of missing tickets, schools need not actually issue a replacement ticket if appropriate meal arrangements are made, such as accompanying the student through the cafeteria line.

2. Any procedures established to limit the number of tickets reissued to needy students must conform to all of the following standards.

a. Parents and students must be advised in writing of the school's policy regarding missing tickets and of the students' corresponding responsibility for their tickets. Such notice shall be provided at the time applications are distributed to households or upon approval for free or reduced price benefits,

b. A minimum of three ticket replacements, or special meal arrangements resulting from three lost or stolen tickets, must be allowed each student within each school year.

c. The school must maintain a list of students who have reported missing original ticket(s) in the current school year and the number of occurrences for each student. Prior to denying a meal to any student without a ticket, the list should always be reviewed to determine whether the student has already had at least three ticket replacements or special meal arrangements for lost or stolen tickets within the school year.

d. At least one advance written warning must be given to the student(s) and the parent(s) prior to refusal to allow additional meals or ticket replacements. The written warning must include an explanation that the student has repeatedly requested replacement tickets and that each subsequent time the student fails to have a ticket, he/she will be expected to pay for the meal.

e. Meals must always be provided to preprimary and young primary students or for any disabled student who may be unable to take full responsibility for a meal ticket.

3. It is recommended that the meal or ticket replacement policy for missing free and reduced price tickets be extended to the loss of full-priced tickets. If such a uniform policy is not implemented, schools should exercise caution to prevent overt identification of needy students, when reissuing tickets or providing meals to students whose tickets are missing.

E. Privacy Act Statement

1. The meal application must contain a privacy act statement. The statement must address the following information.

a. The disclosure of a social security number is voluntary; however, the social security number of the adult signer of an income application is required for approval of the application. If the adult signer has no social security

number, there must be a statement indicating that the adult signer has no social security number.

b. The social security number is required under provisions of the National School Lunch Act.

c. The statement must disclose what uses will be made of the social security number.

Sample Privacy Act Statement

***PRIVACY ACT STATEMENT:** Unless you list the child's food stamp or FITAP case number or are applying for a foster child, Section 9 of the National School Lunch Act requires that you include the social security number of the household member signing the form or indicate that the household member signing the form does not have a social security number. You do not have to list a social security number; but if a social security number is not listed or an indication is not made that the adult household member signing the form does not have a social security number, we cannot approve the form. The social security number may be used to identify the household member in verifying the correctness of the information stated on the form. This may include program reviews, audits, and investigations and may include contacting employers to determine income, contacting a food stamp or FITAP office to determine current certification for food stamps or FITAP benefits, contacting the State employment security office to determine the amount of benefits received, and checking the documentation produced by the household member to prove the amount of income received. These efforts may result in a loss or reduction of benefits, administrative claims, or legal actions if incorrect information is reported. The social security number may also be disclosed to programs as authorized under the National School Lunch Act and the Child Nutrition Act, the Comptroller General of the United States; and law enforcement officials for the purpose of investigating violations of certain Federal, State, and local education, health and nutrition programs.

F. Confidentiality and Disclosure of Eligibility Information

1. The names of students and their meal eligibility status for meal benefits shall be kept confidential; however, it is acceptable for authorized individuals to disclose information under the following guidelines.

a. The Healthy Meals for Healthy Americans Act of 1994, P.L. 103-448, amended Section 9 (b)(C) of the National School Lunch Act (42 U.S.C. 1751 (b)(2)(C)) allows, without consent, limited disclosure of information about free and reduced price meal eligibility. Disclosure limitations apply to all the Child Nutrition Programs. The Statute specifies a fine of not more than \$1000 or imprisonment of not more than 1 year, or both, for unauthorized disclosure of free and reduced price meal eligibility information.

b. The USDA has authorized determining agencies (the State Agency, school food authority, schools including private schools, charter schools, child care institutions or Summer Food Service Program sponsors) to disclose free and reduced meal eligibility information to the extent authorized in the statute. Disclosure of eligibility information about participants beyond that authorized by the statute is permitted only with consent. The entity receiving the information from the determining agency, termed the receiving entity, may use the information for only the purpose authorized and may not share the information further. Providing aggregate information that does not identify individuals continues to be permitted without consent.

c. Determining agencies may disclose, without consent, participants' names and eligibility status (whether they are eligible for free meals or reduced price meals) to

persons directly connected with the administration or enforcement of the following programs:

i. federal education programs, such as Title I and the National Assessment of Educational Progress;

ii. state health or state education programs, provided the programs are administered by a state agency or a local education agency; Representatives of state or local agencies evaluating the results and compliance with student assessment programs would be covered only to the extent that the assessment program was established at the state, not local level;

iii. federal, state, or local means-tested nutrition programs with eligibility standards comparable to the National School Lunch Program (i.e., food assistance programs to households with income at or below 185 percent of the federal poverty level, such as the Food Stamp Program or a state or local nutrition program); and

iv. at the discretion of the local SFA, the eligibility status of prospective students enrolled in a Charter School approved by the SBESE may be disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§713. Verification Process for School Meals

A. Verification is confirmation of eligibility for free and reduced price benefits under the NSLP or SBP. Verification must include confirmation of income eligibility or confirmation that the child is included in a currently certified food stamp household or FITAP. At State or local discretion, verification may also include confirmation of any other information on the application that was required as a condition of eligibility. (Refer to §705, "Application Process.")

B. Direct Certification

1. Food Stamp/FITAP households are excluded from the verification process when the households are approved through direct certification. SFAs should determine the minimum number of applications required to be verified based on the number of approved applications on file as of October 31 that are not directly certified.

C. Implementation

1. Verification must take place after the application has been approved. The SFA must complete verification of the minimum required sample size by December 15. Any additional applications may be verified anytime during the school year after applications have been approved. Any verification that is done for cause is in addition to the sample required for either random or focused sampling.

D. Sample Size Requirement

1. Each SFA must verify a sample of the total number of applications approved for benefits by selecting a sample through either random or focused sampling. These two verification methods are further described below.

a. Focused Sampling. The focused sampling method requires the verification of the lesser of 1% or 1,000 of the total approved applications (both income and categorical), selected from the approved applications with income information, plus the lesser of .5% or 500 of approved categorically eligible applications with food stamp/FITAP case numbers reported.

b. Random Sampling. The random sampling method requires the verification of the lesser of 3% or 3,000 of the approved applications, selected randomly.

2. SFAs may verify more than the required minimum sample, up to 100% of all approved applications, as long as the selection does not involve discrimination against anyone on the basis of race, color, national origin, age, sex, or disability. For the purpose of meeting the Federal minimum verification requirement, the total number of approved applications on file in the SFA is determined on October 31. Verification may begin prior to this date. SFAs may, based on experience, project the number of approved applications that will be on file on October 31.

E. Rounding Fractions

1. When calculating sample sizes, the SFA should always round fractions upward. With focused sampling, a minimum of one categorically eligible application and one income application must be verified if there are any such applications on file.

F. Focused Sample Selection Process

1. SFAs should focus their sampling targets for verification on applications with a high likelihood of containing errors: that is, households providing income information on the application and reporting income just below the minimum eligibility level.

2. SFAs should count all approved applications on file to determine the total. They should separate the applications into two groups:

a. the non-categorically eligible applicants, applicants who were approved on the basis of income information; and

b. the categorically eligible applicants, applicants who provided a FITAP or food stamp case number.

G. Income Eligible Sample

1. SFAs should use the following procedures to determine sample sizes for income eligible applicants.

a. For applications that provide income information, the sample size is 1% of total approved applications on file or 1,000 applications, whichever is less: e.g., total applications x .01.

b. From the group that reported income information, SFAs should select those applications with monthly incomes within \$100, or annual income within \$1,200, of the income eligibility limits. Zero income applications should be included.

i. If there are more applications with monthly income reported within \$100 (\$1,200 yearly) of the eligibility levels than needed to meet the minimum sample size, SFAs should select the income application sample using any method that is equitable and that ensures that the same households will not be selected year after year.

ii. If there are not enough applications with monthly income reported within \$100/\$1,200 (yearly) of the eligibility levels to meet the required minimum sample size, SFAs should select from those applications with monthly incomes closest to the eligibility levels.

iii. If there are not enough applications containing income information to meet the required minimum sample size, SFAs should verify all the applications approved on the basis of income information.

iv. Zero income applications may be verified for focused sampling in addition to the required number to be verified.

H. Categorically Eligible Sample

1. SFAs should use the following procedures to determine sample sizes for categorically eligible applicants.

a. They should determine the number required to fill the sample size by multiplying the total number of the categorically eligible applications by .005. The sample size is the lesser of 500 or .5% of all applications approved on the basis of food stamp or FITAP case numbers.

b. From the categorically eligible group, SFAs should select the sample using the method that is equitable and should ensure that the same household is not selected each year.

I. Random Sample Selection Process

1. The random sample size is 3% of all approved applications on file on October 31 or 3,000 applications, whichever is less. To calculate the minimum required sample size, multiply the total number of approved applications, including both income and categorical applications, by .03. At least one application must be verified.

2. SFAs should randomly select the required number of applications. Using the random sample method, SFAs should ensure that each application must have an equal chance of being selected, including all categorical and income applications.

J. Household Notification

1. When a household is selected for verification and is required to submit documents or other forms of evidence to verify eligibility, the household must be sent a notice/letter informing it of its selection and the types of information acceptable. The letter/notice to the household should include

a. the notice of selection for verification;

b. notification of the types of acceptable information that can be provided to confirm income include such documents as pay stubs, award letters from welfare Food Stamp and FITAP departments and social security offices, and support payment decrees from courts;

c. a request for proof that the child is a member of a currently certified food stamp household or FITAP assistance unit may be provided instead of income information;

d. a request for social security numbers must be provided for all adult household members of families whose eligibility is based on the submission of income information;

e. notification that information must be provided, and failure to do so will result in termination of benefits;

f. the name and telephone number of a school official who can answer questions and provide assistance, and

g. notification that the household is required to submit the requested information by a specified date, as determined by the SFA.

When the SFA uses agency records to verify eligibility, the letter/notice of selection

is not required, since the household will not have to provide documents and household cooperation will not be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§715. Verification Methods

1. School officials must often use their own discretion in the process of verifying the eligibility of individual households. The following guidelines attempt to address most circumstances.

A. Written Evidence

1. Written evidence is the primary source of eligibility confirmation for income households, and the only acceptable source of eligibility confirmation for food stamp/FITAP households. Written evidence is most often in the form of pay stubs and letters from Food Stamp/FITAP or other government agencies submitted by the household to the verifying official as confirmation of eligibility.

B. Collateral Contacts

1. A collateral contact is an oral confirmation of the household's income by a person outside of the household who is knowledgeable about the household circumstances. Collateral contacts could include employers, social service agencies, migrant agencies, and religious or civic organizations. The verifying official should request a collateral contact only in cases in which the household has not been able to provide adequate written evidence.

2. The verifying official may select a collateral contact if the household fails to designate one or designates one that is unacceptable to the verifying official. In either case, no contact may be made without first notifying the household and obtaining its permission.

C. Agency Records

1. A household's eligibility may be confirmed through the use of information maintained by other government agencies to which the State Agency, SFA or school has legal access. Although USDA regulations do not require that households be notified of selection when verifying through agency records, such agencies may have their own notification requirements.

2. Food Stamp/FITAP Offices are permitted by law to release eligibility information from their files to other Federal assistance programs and Federally assisted State programs. A form that can be sent to the LEA's Office of Eligibility Determinations to request confirmation of receipt of FITAP benefits may be obtained from the State Agency.

3. The LDOE will disseminate the October computer listings of food stamp participants to LEA and diocesan SFAs. Private schools may contact the LEA's parish school food service program director to check their food stamp applications. Since regulations require the verification of current or previous month's income, this listing must be utilized before the end of November.

4. Households that dispute the validity of income information acquired through agency records must be given the opportunity to provide more recent income information during the 10-day advance notice of adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§717. Confirmation of Eligibility Based on Income Information

A. Notification

The notification of selection for verification should include a request for the household to submit written evidence of current income and provide social security numbers for all adult household members. (Refer to §723, "School Food Authority Verification Guidance.")

The household must submit the social security numbers of all adult household members and written evidence of current income. (Refer to §723, "Appendix B.") Review the income document(s) for the name, date and amounts stated to determine whether the information provided is sufficient to determine total current income.

If the written evidence is current and confirms the eligibility determination previously made, the verification requirement has been satisfied. If the written evidence confirms a higher or lower income and changes the eligibility determination previously made, the verification requirement has been satisfied.

B. Follow-up

1. If the household submits insufficient or obsolete written evidence, school officials may contact the household to request the missing written evidence of current income and advise the household that failure to comply or designate a collateral contact will result in termination of benefits. If the household subsequently submits sufficient written evidence, the verification requirement has been satisfied.

C. Adverse Notice

1. If the household still does not submit sufficient written evidence or if the household failed to respond to the verification request, the SFA must send the 10-day advance notice of adverse action.

§719. Confirmation of Categorical Eligibility

A. Food Stamp/FITAP Office

1. When verification of eligibility involves use of computer listings of the names and case numbers of food stamp participants for October, the lists must be used before the end of November. Source information used must be current. In addition, the verification of eligibility must be accomplished so that there is sufficient time to acquire other verification from applicants identified as not currently receiving food stamp benefits.

B. Household Documentation

1. A school can place the responsibility for verifying receipt of food stamp/FITAP benefits on the household by requesting that the household provide a document from the Food Stamp/FITAP Office.

2. Every time a household is approved for food stamps, it is furnished with a written letter of determination or notice of eligibility. The verifying official should examine this notice of certification to ensure that the child for whom application was made is part of a household currently participating in the Food Stamp Program. The notice of eligibility or the notice of certification is preferred for verification purposes.

3. FITAP recipients may provide their notice of eligibility for FITAP benefits that serves as documentation of their eligibility status as well as positive confirmation of their FITAP number.

4. A food stamp/FITAP document that does not specify the certification period is not adequate for documentation: for example, the food stamp identification card is not acceptable because it usually does not have an

expiration date and is often kept by the household after the certification period has ended. The Electronic Transfer Benefits (ETB) card (Louisiana Purchase Food Stamp Card) is not proof of current certification of benefits.

5. A household that does not have satisfactory food stamp/FITAP documentation may request a signed, dated letter from the Food Stamp/FITAP Office certifying that the child is part of a household currently receiving benefits.

C. Advance Notice

1. When it is determined that the child is not part of a household currently receiving food stamps/FITAP, the household must be given 10 calendar days advance notification of termination and be informed that they must submit an application. The application must include household members and income information, a social security number for each adult household member, and written evidence that confirms household income to establish continued eligibility for school meal benefits.

D. Acceptable Verification Confirmation

1. Verification is complete when the local Food Stamp/FITAP Office certifies that the child is in a currently certified food stamp household or is receiving FITAP funds, or that adequate documentation of current participation in either program has been submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§721. Completion of Verification

A. Completion Date

1. Verification activities must be completed by December 15 of each year. Completion means that the required number of applications has been selected, notices have been sent to parents, social security numbers have been obtained for all adult household members for households providing income information, eligibility for the approved level of benefits for each applicant selected for verification has been confirmed or not confirmed, parents have been notified of changes or termination, and all changes/terminations have been implemented on or before December 15.

B. Confirmation of Eligibility, Changes/Termination

1. Verification of a household's income eligibility for free or reduced price meals must result in one of the following options.

a. No change in benefit level. The household's current income or food stamp or FITAP eligibility supports the level of benefits for which the household has been approved.

b. Reduction in benefit level. The household's current income is too high for the benefits for which the household has been approved; therefore, the household's eligibility must be changed from free to reduced price, free to paid, or reduced price to paid immediately following the 10 calendar days from the date of the advance notice of adverse action, but no later than 10 operating days from the date of the final determination.

c. Increase in benefit level. The household's current income or food stamp or FITAP eligibility qualifies the household for free meals rather than reduced price meals. Therefore, the household's eligibility must be changed from reduced price to free meals as soon as possible, but no later

than three operating days from the date of the final determination, or.

d. Termination of benefits. Households that do not cooperate with verification efforts or whose current income does not support eligibility for either free or reduced price meals must be changed as outlined in Section 721(C)-Notification of Adverse Action, below.

2. If the verification of a household reporting income information or a food stamp identification number results in a change in benefit level or in termination, the change must be extended to all children in the household. However, this extension does not apply to foster children.

C. Notification of Adverse Action

1. All households that are to receive a reduction or termination of benefits as a result of verification must be given 10 calendar days advance notice of the change. Benefits must be changed within 10 operating days after the end of the 10 calendar day period unless the household appeals.

2. The 10 day advance notice must advise the household of the following elements:

- a. the change in benefits;
- b. the reasons for the change;
- c. the requirement an appeal must be filed within the 10 calendar day advance notice period to ensure continued benefits while awaiting a hearing and decision;
- d. the instructions on how to appeal; and
- e. the opportunity and providing for the household to reapply for benefits at anytime during the school year.

D. Continuation of Benefits During Appeals

1. If a household appeals a reduction or termination of benefits within the 10 calendar day advance notice period, the SFA must continue to provide meal benefits to students during the appeals process.

E. Hearing Procedure

1. The hearing procedure in the SFA's Free and Reduced Price Policy must be followed.

2. The hearing official must be an individual not connected with the approval or verification process.

3. The household may request a school conference prior to a formal hearing. This conference must not prejudice a later appeal.

F. Households that Reapply For Program Benefits

1. Households affected by a reduction or termination of benefits may reapply at any time during the school year. However, if benefits to a household have been terminated and the household reapplies in the same school year, it should be required to submit income documentation or proof of participation in the Food Stamp or FITAP Program at the time of the reapplication. The SFA may verify the households' eligibility prior to approval. This application is not considered a new application, since verification was not completed.

2. It is strongly suggested that the SFA establish procedures to identify households terminated as a result of verification to facilitate selection of those households for verification if they reapply for benefits during the same or subsequent school years. However, households verified and confirmed as eligible should not be reselected in the following school year if it can be avoided by the SFA.

G. Recordkeeping

1. SFAs must maintain a written description of their verification efforts. The description must include the following elements:

- a. a summary of the verification efforts, such as the selection process, and the source of information used;
- b. enough information for the process to be duplicated;
- c. the total number of applications on file on October 31; and
- d. the percentage or number of applications verified.

2. Either directly on the application or elsewhere, SFAs should keep a full record of

- a. dates notices were sent;
- b. notes on any contacts made;
- c. copies of income documentation;
- d. results of verification to include any changes in eligibility as a result of the verification process;
- e. reasons for any denial or change of eligibility and the date; and
- f. the signature and title of the verifying official.

3. This documentation is useful in demonstrating proper verification when SFAs are reviewed by the State Agency and would be needed in case of an applicant's appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:

§723. Appendices

Focused Sampling Worksheet.

SFA Guidance/Acceptable Income Documentation

Appendix A. Focused Sampling Worksheet

Income Sample

(1) Sample Size: Total number of approved applications including income, food stamps households, and students receiving FITAP assistance _____ x .01 = or 1,000, whichever is less. Round all fractions upward to a whole number.

(2) Divide applications into two groups: categorically eligible applicants and those eligible based on stated income.

(3) Select applications with reported income within \$100 a month or \$1,200 a year of the free eligibility level and the reduced price eligibility level until you reach the required sample. Verify applications from both the free and reduced price categories.

(4) Sample selection techniques, which are equitable and ensure that the same Household is not selected each year, are determined at the local level. A statistically valid selection method may be used if desired.

Categorically Eligible Food Stamp/Fitap Sample

(1) Sample Size: Total number of categorically eligible applications _____ X .005 = _____ or 500, whichever is less. Round all fractions upward to whole number.

Sample selection techniques, which are equitable and ensure that the same Household is not selected each year, are determined at the local level. A statistically valid selection method may be used if desired.

Appendix B. SFA Guidance/ Acceptable Income Documentation

**Louisiana Department of Education
Division of Nutrition Assistance
School Food Service Section**

The following listing contains examples of sources of acceptable income documentation. This list is not exclusive, and additional sources may be requested.

Suggested Sources of Acceptable

Written Types Of Income

Written Types Of Income	Evidence
<p>1. Earnings (wages and salary) are the total or gross earnings before the withholding for FICA, and taxes, or other deductions, such as insurance. If the applicant is a self-employed business person or farmer, net income should be used. Net income equals gross income minus deductible business expenses. NOTE: Many of the assets of self-employed business persons are on paper and their cash or net worth is often very low, although they may hold considerable property and equipment (assets). They should report only their actual cash income, not assets.</p>	<p>A current paycheck stub Pay envelope showing total gross pay Letter from employer stating gross wages Self-Employed: Business or farming documents, such as ledger books Last quarterly tax estimate Last year's tax return</p>
<p>2. Cash Income: Some persons who work in situations where the employer does not want to be responsible for withholdings - such as domestic workers, casual laborers, or persons working for an individual or small business on an irregular basis - may receive wages in the form of cash.</p>	<p>A letter from the employer stating wages paid and frequency</p>
<p>3. The FITAP, or Family Independence Temporary Assistance Program, is a welfare payment intended to assist eligible persons to meet the costs of daily living. Most often these payments are made to families with needy children under the age of 18 (21 if in school) in which a parent is absent from the home. Many states also provide benefits to families in which the male head of the household has been unemployed for a long time.</p>	<p>Benefit letter from the welfare agency</p>
<p>General Assistance or welfare is often a cash payment made by local welfare/human service agencies based upon need. Often these payments are confused with or even combined with FITAP payments.</p>	<p>Benefit letter from the welfare agency</p>
<p>5. Unemployment Compensation is paid to individuals who have lost their jobs.</p>	<p>Unemployment compensation award letter Notice of eligibility from State Employment Security Office Agency records</p>
<p>Child Support or Alimony is a payment by a separated or divorced spouse for the support of children or the spouse. Although the court has ordered (decreed) a monthly amount or an amount was agreed upon, payments may be infrequent or irregular. Only actual payments and not the amount that is supposed to be received should be reported.</p>	<p>Copies of checks or other proof of payments received, court decree or agreement</p>
<p>7. Social Security Retirement is more correctly named Old Age and Survivors Disability Insurance. It actually includes the traditional retirement benefit, payments to survivors (spouses and children), and disability payments. The disability payments are similar to SSI. Please note that younger persons (pre-retirement) and their dependents can also receive disability payments, unless they are retired (over 60).</p>	<p>Social Security retirement benefit letter Official statement of benefits received Monthly check (green in color)</p>
<p>8. SSI or Supplemental Security Income is not a retirement pension: it is a special funding program to assist households with aged, blind, or disabled members. Often, if a child has a learning disability, the household will receive a monthly SSI assistance payment. Please note that some applicants will refer to these payments as "disability" and may not understand that it is a form of Social Security payment (welfare).</p>	<p>SSI eligibility letter SSI check (gold in color) Official statement of benefits received</p>
<p>9. Retirement/Pension refers to non-Social Security retirement. It includes private pensions, State pensions, veterans and/or military retirement and the like.</p>	<p>Official statement of benefits received Pension award notice</p>
<p>RR Benefit or Railroad Retirement is a special government retirement fund for former employees of the railroads. Payments can be made to survivors (spouses and children).</p>	<p>Official statement of benefits received Railroad retirement award letter</p>
<p>11. Veteran's Payments is money paid periodically by the Veterans Administration to disabled members of the Armed Forces or the survivors of deceased veterans.</p>	<p>Official statement of benefits received Veterans Administration award notice</p>
<p>12. Rental Income is room and board payments by non-household members living in the home.</p>	<p>Rental agreement or letter from non-household members stating amount paid</p>
<p>13. Military Housing Allowances may be received if an adult member of the household is a member of the military and if the household is located off base.</p>	<p>Leave and Earnings Statement Letter from the base commander stating amount and frequency of allowance</p>

<p>14. Zero Income. On occasion, a household may report no income on the application. Zero income might be reported if a parent is a live-in housekeeper and receives only room and board as compensation for work done, or if a household is being supported by non-monetary means provided by religious or civic organizations because of illness or disability. A household can be asked to provide a written statement describing the household's circumstances: i.e., how the household pays for food, housing, etc., when no income is reported. In lieu of requesting such a written statement, you may want to use a collateral contact approach to verify the application. A foster child or institutionalized household may also report zero income on the application.</p>	<p>Written statement from household describing how it subsists Collateral contact</p>
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Chapter 9. Meal Planning and Service

§901. General

A. The USDA School Meals Initiative for Healthy Children underscores our national health responsibility to provide healthy school meals that are consistent with the recommended Dietary Allowances (RDA), age appropriate caloric goals and the Dietary Guidelines for Americans. Every School Food Authority (SFA) should strive to serve meals that are nutritionally adequate, attractive, and moderately priced.

B. SFAs shall ensure that schools provide to children meals that meet the USDA School Meals Initiative for Healthy Children's nutrition goals. The nutritional goal of school lunches, when averaged over one week, is to provide one-third of the RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B, and C of this chapter. Breakfast should provide one-fourth of students' RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B, and C of this chapter. Lastly, school lunches shall follow the recommendations of the 1990 Dietary Guidelines for Americans with emphasis on limiting total fat to 30 percent based on the actual number of calories offered, limiting saturated fat to 10 percent based on the actual number of calories offered, reducing the levels of sodium and cholesterol and increasing the level of dietary fiber.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§903. Nutrient Standard

A. A Nutrient Standard is the required level of calories and nutrients needed to meet the nutritional needs of a specific grade/ age group. Planning menus that meet the Nutrient Standards should be the goal of all menu planners. These standards were set using the RDA as a guide to ensure that meals planned would meet the nutritional needs of children based on age.

B. Lunch and breakfast menus should meet the Nutrient Standards when averaged over one week. A week is defined as a minimum of three and a maximum of seven consecutive days. Standards are set for

1. calories;
2. percentage of calories from total fat;
3. percentage of calories from saturated fat;
4. protein;
5. calcium;
6. iron;

7. vitamin A;

8. vitamin C.

C. The USDA has created minimum required age/grade groups for the different menu planning systems. Required and Optional Nutrient Standards are included in §955: Appendices. Requirements for specific age/grade groupings vary depending on the menu planning option chosen. (Refer to §911, "Meal Planning Options" to determine which Nutrient Standards to use.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§905. Computerized Nutrient Analysis

A. A computerized nutrient analysis is used to determine whether the Nutrient Standards are being met for a specific grade/age group. Use of an approved USDA software is required to conduct the analysis. Nutrient analyses of lunch and breakfast menus may be conducted by the SFA or State Agency using protocol developed by the USDA.

B. Nutrients required to be analyzed are calories, total fat, saturated fat, protein, calcium, iron, Vitamin A, and Vitamin C. Additional nutrients and dietary components that will be analyzed are cholesterol, sodium, and fiber. While there are no quantities set for these additional nutrients, they must be included in the analysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§907. Breakfast and Lunch Production Requirements

A. SFAs shall ensure that sufficient quantities of food are planned and produced so that meals contain all the required food/menu items as specified by the menu planning option chosen. Meals shall be planned and produced on the basis of production trends, with the objective of providing one reimbursable lunch and/or breakfast per child per day. Production and participation records shall be maintained to demonstrate positive action toward providing one reimbursable breakfast and/or lunch per child per day.

B. Breakfast must be offered in all public schools if at least 25% of the students enrolled are eligible for free or reduced priced meals. If at least 50% of the eligible students refuse to participate during any year as demonstrated by sufficient proof to the Louisiana Department of Education (LDOE), the State Board of Elementary and Secondary Education (SBESE) may grant a waiver from the requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§909. Required Documents for Meal Planning Options

A. The following documents shall be maintained to demonstrate that the required menu components and/or food items in sufficient quantities are offered each day.

1. Standardized Recipes

a. Standardized recipes are required to be used in food preparation for all menu planning options. A standardized recipe should include at a minimum:

- i. recipe name;
- ii. portion size;
- iii. yield;
- iv. all ingredients with descriptions such as fresh, frozen, dried, chopped, drained;
- v. ingredient amounts in volume or weight;
- vi. instructions for preparation.

2. Manufacturer's Nutrient Analyses and Nutrition Facts Label

a. SFAs are required to collect and have on file the nutrient analyses or Nutrition Facts labels for all processed food products and foods that do not appear in the USDA Food Buying Guide. Nutrient analyses can be secured from the product's manufacturer or broker or from the USDA's Child Nutrition DataBase. The Nutrition Facts label appears on the product's container or packaging.

b. The nutrient analysis or Nutrition Facts label must provide, at a minimum, the following information:

- i. serving size by volume and weight;
- ii. number of servings per container;
- iii. calories;
- iv. protein;
- v. total fat;
- vi. saturated fat;
- vii. cholesterol;
- viii. sodium;
- ix. total carbohydrate;
- x. dietary fiber;
- xi. vitamin A;
- xii. vitamin C;
- xiii. calcium;
- xiii. iron;

c. Additional nutrients or components may be given and can be included in the nutrient analysis. A sample of a nutrient analysis and a Nutrition Facts label are shown in §955. E. and F.

d. The information provided by the nutrient analysis and the Nutrition Facts label can be used to 1) conduct nutrient analyses of menus, 2) provide SFAs with a tool to use to compare the nutritional content of like or similar products, and 3) serve as an incentive for food companies to improve the nutritional content of the products they produce.

3. Nutrition (CN) Labeling Program/CN Label

a. The CN labeling program is a voluntary, technical assistance program administered by the Food and Nutrition Services (USDA) in conjunction with the Food Safety and Inspection Service (USDA), the National Marine Fisheries Service, and the United States Department of Commerce. This program involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward food-based meal pattern requirements and a review of the CN label statement to ensure its accuracy. The CN label states component requirements but

does not guarantee that the product is acceptable, that it is good for children, or that it meets the Dietary Guidelines or the Nutrient Standards. Products eligible for the CN label are as follows:

i. commercially prepared products that contribute significantly to the meat/meat alternate component served as the main dish; and

ii. juice drinks and juice drink products that contain a minimum of 50 percent full-strength juice by volume.

b. Products manufactured in accordance with USDA requirements carry an approved CN label. A CN label statement must be an integral part of the product label and must include all of the following:

- i. the CN logo;
- ii. a six-digit product identification number;
- iii. a statement of the product's contribution toward meeting the meal pattern requirements;
- iv. authorization by USDA/FNS; and the month and year the label was approved.

c. The CN label should not be confused with Nutrition Facts labels, nutrient analyses, or product formulation statements. A sample of a CN label can be found in §955, G.

d. The USDA requires that SFAs be able to document the contribution that processed products make to the meal pattern requirements. Therefore, the SFA must maintain on file a copy of the label for all CN labeled products. CN labels are not required for SFAs using any of the nutrient standard menu planning options. A product formulation or product analysis sheet may be substituted for the CN label where applicable.

e. It is the SFA's responsibility to assure that products received meet specifications and have the correct CN number. The food service manager must be provided with the appropriate information, including serving sizes and crediting information. Depending on the menu planning option chosen, the CN number may be required when completing the Daily Production Record at each school/site.

4. Product Formulation Statement

a. The product formulation statement is a statement prepared and certified by the manufacturer of a prepared (processed) product declaring appropriate ingredient and crediting information. The product formulation statement must

i. be on the company's letterhead; provide the product name, product code number, portion size/weight, pack, case weight;

iii. contain a crediting statement;

iv. contain a certification statement; provide sufficient information for the purchaser to determine whether the crediting statement appears reasonable; and

vi. be signed by a legally authorized representative of the company.

b. Proper documentation must be maintained on each processed item that is used to meet meal requirements. The food service manager must be provided with the appropriate information including serving sizes and crediting information.

c. A product formulation statement may be used in lieu of a CN label but, unlike the CN label, it does not carry a USDA warranty against losing reimbursement should there be an error. Therefore, SFAs must carefully review the statement to determine the accuracy of the information given prior to purchasing the product. Should a Federal or State review find that the product did not meet meal requirements, an audit exception may be taken. (Refer to the guidance for Reviewing Product Formulation Statement in §955. H., and the sample form in §955. I.)

5. Summary of Required Documents for Meal Planning Options

Meal Planning Option	Standardized Recipes	Manufacturer's Nutrient Analysis or Nutrition Facts Labels	CN Labels or Product Formulation Statements
Traditional Food-based	✓	✓	✓
Enhanced Food-based	✓	✓	✓
Nutrient Standard	✓	✓	
Assisted Nutrient Standard	✓	✓	
Any Reasonable Approach	✓	✓	*

*Will depend on the option approved. Contact the State Agency for additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§911. Menu Planning Options

A. The USDA has created five menu planning options that allow SFAs to plan meals that meet the nutritional needs of school children. SFAs may choose one or more meal planning options to accommodate the schools/sites in their system; however, only one menu planning option may be used at an individual school/site. All menu planning options require breakfast and lunch menus to meet the Nutrient Standards discussed in § 903: Nutrient Standards. The options are listed below.

1. traditional food based menu planning;
2. enhanced food based menu planning;
3. nutrient standard menu planning;
4. assisted nutrient standard menu planning;
5. any reasonable approach.

B. The Traditional and Enhanced Food Based Menu Planning options are similar in that they require the menu planner to plan menus from specific food groups and require minimum quantities of these foods to be offered daily and/or weekly. Required minimum quantities and age groupings are different within these two menu planning options.

C. Nutrient Standard Menu Planning (NSMP) and Assisted Nutrient Standard Menu Planning (ANSMP) require SFAs to plan menus to meet the appropriate nutrient standards, and to analyze their menus for nutrient content using USDA approved nutrient analysis software. The regulations for these options are identical with the exception that SFAs using the ANSMP may have their menu cycles analyzed by an outside entity: e.g., other SFAs, consultants,

the State Agency. Unlike the Food Based menu planning options, NSMP and ANSMP do not require specific foods or specific quantities with the exception of fluid milk.

D. Any Reasonable Approach allows SFAs to develop their own menu planning system provided it meets the specific requirements listed in the regulations. SFAs choosing this option must submit a detailed plan to the State Agency for approval prior to implementation.

E. Refer to §911. 1-5 for detailed information on each menu planning option.

1. Traditional Food Based Menu Planning

a. The Traditional Food Based Menu Planning option requires the use of foods from four specific food groups that are called food components. These foods must be included in the menu each day. A minimum number of servings per day and/or per week are specified for each food component each day.

b. Lunch menus must be planned to meet daily/weekly food component and meal pattern requirements. A lunch must contain a specified quantity of each of four required food components. A minimum of five food items, as shown below, must be offered.

i. Lunch Required Components/Food Items

Lunch Food Components	Lunch Food Items	Sample Lunch
Meat/Meat Alternate	1.Meat/Meat Alternate	Oven Baked Chicken
Vegetable/Fruit	2.Vegetable/Fruit	Green Beans
Grains/Breads	3.Vegetable/Fruit	Chilled Peaches
Milk	4.Grains/Breads	Whole Wheat Roll
	5.Milk	Milk

c. Breakfast menus must be planned to meet daily meal pattern requirements. Students must be offered four food items at breakfast. The food items must be offered in one of the three combinations listed below.

i. Breakfast Combinations Containing Required Components

Combination 1	Or Combination 2	Or Combination 3
1 Serving Milk	1 Serving Milk	1 Serving Milk
1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable
2 Grains/Bread	2 Meat/Meat Alternates	1 Grains/Breads
Sample Breakfast	Sample Breakfast	Sample Breakfast
Combination 1	Combination 2	Combination 3
Chocolate Milk	Lowfat Unflavored Milk	Whole Milk
Hash Brown Potatoes	Orange Juice	Fresh Strawberries
Large Biscuit (2 oz.)	Scrambled Egg	Cheese Toast
	Sausage Link	

d. Fluid milk and a food item selected from the Juice/Fruit/Vegetable component must always be offered. The fluid milk may be served as a beverage or on cereal or both; choices of whole milk, reduced fat milk, and lowfat milk should be offered whenever possible.

e. Menu Components

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Traditional School Lunch/Breakfast Pattern charts, §955. J. and K. Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by age/grade groups;

however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, a school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a). Meat/Meat Alternate

(i.) Any food item used to meet the meat/meat alternate requirement must be listed in the USDA Food Buying Guide or have a Child Nutrition (CN) label or a certified product formulation statement. Foods that may be counted as a meat/meat alternate include lean meat, poultry, or fish; cheese; eggs; cooked dry beans or peas; peanut butter or other nut or seed butters; yogurt; peanuts, soynuts, tree nuts, or seeds. Alternate protein products, as outlined in this section, may also be used as meat alternates. If schools do not offer choices of meat/meat alternates each day, it is recommended that no one meat alternate or form of meat (e.g., ground, diced, pieces) be served more than three times in a single week.

(ii.) The quantity of meat or meat alternate shall be the quantity of the edible portion as served. To be counted as meeting this requirement, the meat or meat alternate shall be served in a main dish or in a main dish and only one other menu item: that is, two menu items are the maximum number that may be used to meet the meat/meat alternate requirement. When two menu items are used, the combination must total the minimum quantity required and the items should be merchandised together and served as a single item: for example, a soup and sandwich combo may be offered as a menu combination. (Refer to the Traditional School Lunch/Breakfast Pattern charts, §955. J. and K, for quantity requirements by age/grade groups.)

(iii.) Small amounts (less than ¼ oz.) of meat/meat alternates used as garnishes, seasoning, or in breading do not count toward meeting the quantity requirement of the meal. Examples are grated parmesan cheese used as a garnish over spaghetti or egg used in breading. Although use of such garnishes is encouraged, the amounts are not sufficient to make a real nutritional contribution to the meal.

(iv.) Cooked dry beans/peas may be used as a meat/meat alternate or as a vegetable/fruit but cannot meet the requirement for both components in the same meal. The serving size of cooked dry beans/peas is measured by volume, not weight.

(v.) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt is credited at a ratio of four ounces (weight) or one-half cup (volume) of yogurt for one ounce of meat; the smallest portion that may be credited is two ounces (weight) or one-fourth cup (volume). To be counted, a product must meet the standard of identity for yogurt established by the Federal Drug Administration; noncommercial and/or nonstandardized products—such as frozen yogurt, homemade yogurt, drinkable yogurt products, yogurt-flavored products, yogurt bars, yogurt-covered fruit and/or nuts or similar items—cannot be used. Yogurt may be either plain or flavored, unsweetened or sweetened, fruited or nonfruited; however, the fruit in commercial fruited yogurt products cannot be credited toward the vegetable/fruit component.

(vi.) Nuts and seeds - such as peanuts, soynuts, almonds, pecans, and walnuts - may be used to meet only one-half of the total meat requirement for lunch and must be combined in the same meal with other meat or meat alternates to provide at least the minimum quantity needed for the various age/grade groups. Only one ounce can be served at breakfast. Acorns, chestnuts, and coconuts cannot be counted as a meat alternate.

(vii.) Lowfat and reduced fat cheeses may be credited toward meeting meal pattern requirements on an ounce-per-ounce basis, the same as regular fat cheeses. These products may be served alone or in combination with regular cheese. Cheese food substitutes and cheese spread substitutes have a specific standard of identity and receive the same credit as cheese foods and cheese spreads (two ounces provide one ounce of equivalent meat alternate). Cheese substitutes (natural or processed) include reduced fat, lite, or nonfat products. Any product that is labeled as “imitation” or that has only the name “cheese product” cannot be counted toward the meat requirement.

(viii.) Two alternate foods are authorized to meet part of the meat/meat alternate requirement: enriched macaroni with fortified protein and alternate protein products (APP).

[1.] Enriched Macaroni With Fortified Protein

[a.] Dry enriched macaroni with fortified protein may be used to meet no more than 50 percent of the meat requirement and must be combined with meat, poultry, fish, or cheese. An enriched macaroni product with fortified protein may credit toward the meat/meat alternate or the grains/breads requirement, but not as both components in the same meal. Only those products that appear on the USDA listing of acceptable enriched macaroni with fortified protein and that have the following statement on the label may be used: “One ounce dry weight of this product meets one-half of the meat or meat alternate requirements of lunch or supper of the USDA Child Nutrition Programs when served in combination with one or more ounces of cooked meat, poultry, fish, or cheese.” (Contact the State Agency concerning the current list of Approved Enriched Macaroni With Fortified Protein.)

[2.] Alternate Protein Products

[a.] A SFA may use alternate protein products to fulfill all or part of the meat/meat alternate component in the Traditional Food Based Menu Pattern. The alternate protein product may be used alone or in combination with other food ingredients. They may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form. The moisture content of the fully hydrated product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

[b.] A school may use commercially prepared meat or meat alternate products combined with alternate protein products or may use a commercially prepared product that contains only alternate protein products.

[c.] An alternate protein product whether used alone or in combination with meat or other meat alternates must meet the criteria listed below.

[i.] The product must be processed so that some portion of the nonprotein constituents of the food is removed and must be a safe and suitable edible product produced from plant or animal sources.

[ii.] The biological quality of the protein must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

[iii.] The product must contain at least 18 percent protein by weight when fully hydrated or formulated. Hydrated or formulated refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances that have been added.

[d.] Manufacturers supplying an alternate protein product must provide documentation that the product meets all of the above criteria. In addition, manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis.

[e.] Manufacturers should provide the following information for an alternate protein product mix:

[i.] the amount by weight of dry alternate protein product in the package;

[ii.] hydration instructions; and

[iii.] instructions on how to combine the mix with meat or other meat alternates.

(b.) Vegetable/Fruit

(i.) Two or more servings of different vegetables and/or fruits must be offered to meet the vegetable/fruit requirement at lunch. Menu items such as fruit cocktail or mixed vegetables are considered as only one serving. However, large combination vegetable/fruit salads served as an entree that contains at least the minimum daily requirement of vegetables/fruits in combination with a meat/meat alternate—such as a chef’s salad or a fruit plate with cottage cheese—are considered as two (or more) servings of vegetable/fruit and will meet the full requirement.

(ii.) Full-strength vegetable or fruit juice may not be used to meet more than one-half of the total vegetable/fruit requirement at lunch. Any product, liquid or frozen, labeled as “juice,” “full-strength juice,” “single-strength juice,” or “reconstituted juice” is considered full strength. Liquid or frozen “juice drinks” may contain only a small amount of full-strength juice. If used to meet a part of the vegetable/fruit requirement for lunch, the product must contain a minimum of 50% full-strength juice. Only the full-strength juice portion may be counted toward meeting the vegetable/fruit component requirement. At breakfast, only full-strength juice may be served to meet the vegetable/fruit requirement.

(iii.) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but not as both food components in the same meal. Potato chips, corn chips, and other similar chips may not be counted as a vegetable/fruit. Small amounts (less than 1/8 cup) of vegetables/fruits used for flavoring or as a garnish, may not be counted toward the vegetable/fruit requirement.

(iv.) Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the Fruit/Vegetable contribution. In situations where neither is not the case, a certified product formation statement on the product from the manufacturer yield information on the product must be maintained on file in the SFA to indicate the contribution toward the meal requirements.

(c.) Grains/Breads

(i.) Unlike other components, the grains/breads requirement is based on minimum daily servings and total servings per week. The daily minimum requirement of grains/breads for children ages three and over is one serving per day and eight servings over a five day week; a 10 servings per week option meets the requirement for grades 7-12. For each day less than a five day week, the school may decrease the number of servings per week by approximately 20 percent (one-fifth). For Residential Child Care Institutions (RCCIs), the number of servings should be increased by approximately 20 percent (one-fifth) for each day beyond the five day week. Use the chart below to determine the number of grains/breads servings needed.

(ii.) Number of Required Grains/Breads

Servings

Days in Week	Preschool	Grades K-3	Grades 4-12	Optional Grades 7-12
7	11 ¼	11 ¼	11 ¼	14
6	9 ¾	9 ¾	9 ¾	12
5	8	8	8	10
4	6 ½	6 ½	6 ½	8
3	5	5	5	6
2	3 ¼	3 ¼	3 ¼	4
1	1 ¾	1 ¾	1 ¾	2

(iii.) At least one full-sized serving of grains/breads must be offered with lunch each day. When a school offers a choice of two or more menus, the largest number of grains/breads servings offered is counted toward the per week requirement. One-fourth of a serving is the smallest amount that can be credited toward the grains/breads requirement. Grains/breads servings offered at breakfast cannot be counted as contributing to the requirements for lunch.

(iv.) Snack type items such as hard pretzels and chips made from enriched or whole-grain meal or flour as well as bran and/or germ may be credited. (Refer to the Grains/Breads for Food Based Menu Planning chart in § 955. L. for specific food item and serving size requirements.)

(v.) Enriched macaroni products with fortified protein may be used to meet the grains/breads requirement or to meet a part of the meat/meat alternate requirement but not both in the same meal. (Refer to § 911.A.1.e (i)(a): Meat/Meat Alternate, Enriched Macaroni With Fortified Protein.)

(vi.) The criteria listed below are used as the bases for crediting items to meet the grains/breads requirement. (For specific food item and serving size requirements, refer to § 955. L: Grains/Breads for Food Based Menu Planning chart.)

[1.] All grains/breads items must be enriched or whole grain or made from enriched or whole grain meal or flour; or if that item is a cereal, the product must be whole grain, enriched or fortified. Bran and germ are credited the same as enriched or whole grain meal or flour. Crediting of foods is determined by the total amount of enriched flour and/or whole-grain in the recipe and by the number of servings the recipe yields. When enriched or whole-grain meal and/or flour are used as an ingredient in a product or in a recipe, 14.75 grams of the meal and/or flour must be present in order for the serving to be counted as one full serving.

[2.] The label must indicate that the product is enriched or whole grain; is made from enriched or whole grain meal or flour, as well as bran and/or germ; or is fortified. If the product is enriched, the item must meet the Food and Drug Administration's Standards of Identity for enriched bread, macaroni and noodle products, rice, or cornmeal or corn grits.

[3.] The item must be provided in quantities specified in the regulations and in minimum serving sizes as specified in the Grains/Breads for Food Based Menu Planning chart in § 955. L.

(d.) Milk

(i.) Schools are required to offer fluid milk at breakfast and lunch. All milk served shall be pasteurized fluid types of milk that meet State and local standards. Whole and unflavored lowfat milk should be offered. Lowfat milk is defined by the Food and Drug Administration (FDA) as milk that contains no more than three (3) grams of fat per eight (8) fluid ounce serving.

(ii.) Schools are required to offer a variety of fluid milk consistent with student preferences in the prior year; however, if a specific type of milk represents less than 1% of the total amount of milk consumed in the previous year, the school may elect not to offer that particular type of milk. Each student must be allowed to select his/her choice from the milk varieties available. If a milkshake is offered as part of the reimbursable lunch, it must contain, at a minimum, eight ounces of fluid milk.

(iii.) No other beverage may ever be offered as a choice against milk. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(e.) Other Foods

(i.) Other foods refers to food items that do not meet the requirements for any component in the meal patterns. They are frequently used as condiments and seasonings, to improve meal acceptability, and to satisfy the students' appetites. Other foods supply calories that help to meet the energy needs of growing children and contribute varying amounts of protein, vitamins, and minerals essential to good nutrition. Since many of these foods are high in salt, sugar, or fat, the amount and frequency of use should be limited. Other foods must be included as part of the nutrient analysis conducted.

f. Offer Versus Serve

i. Offer versus Serve is a serving method designed to reduce food waste and program costs without jeopardizing the nutritional integrity of the meals offered and served to students. SFAs are required to implement Offer versus Serve at the senior high grade levels at lunch; this option may be extended to students below the senior high level. Offer versus Serve is optional at all grade levels at breakfast.

ii. In schools not implementing Offer versus Serve, a student must take all food items offered. In schools implementing Offer versus Serve, students are allowed to refuse a specified number of food items as described below. The refused food item may be any of the food items offered. Offer versus Serve does not affect the unit price of the meal; the price remains the same regardless of whether students select three, four, or all five-food items/components offered.

(a.) Lunch

(i.) Students must be offered all five required food items at lunch. The serving size of each of the five food items must equal the minimum quantities as specified in the Traditional School Lunch Pattern chart in § 955. J. Two separate vegetable/fruit food items must be offered. The combined serving size of these items must total the required minimum quantity by age/grade group for the vegetable/fruit component.

(ii.) Senior high school students shall be permitted to decline a maximum of two of the five required food items. For a lunch to be reimbursable, a senior high school student must take the full portions of three of the five required food items offered. Students are not required to take specific food items as long as at least three of the five items offered are chosen.

(iii.) Offer versus Serve is optional for elementary, middle, and junior high school students. When Offer versus serve is implemented at the elementary, middle, and junior high levels, the SFA may decide whether a student is allowed to decline two food items or only one food item. If the SFA elects the four-food item minimum, a three-item lunch is incomplete and cannot be claimed for reimbursement.

(iv.) When a student has turned down a full portion of one or two items, the student may be offered a smaller portion of those items. However, the smaller portion(s) cannot count toward meeting the requirements for a reimbursable meal. Double servings of any food item will not count as two of the required items. The required three or four servings must be from different food items.

(v.) A combination of two different meat/meat alternates may be served in the main dish and one other menu item; however, Both items must be taken in order to count the meat/meat alternate food item toward meeting the requirements of a reimbursable meal. The smallest serving size that can be counted as a vegetable/fruit component is 1/8 cup only if 1/8 cup was the planned serving size. For two servings of different fruit/vegetable items to count as two of the required food items, the serving sizes must meet the component quantity requirements for that grade group. For example, if using the two meal patterns, the two different fruit/vegetable items together must equal 1/2 cup for K-3 students and 3/4 cup for 4-12 students.

(vi.) The USDA Healthy School Meals Training Manual, Meal Pattern Requirements and Offer versus Serve Manual (FNS-265) and the USDA video, Recognizing Reimbursable Meals in the National School Lunch and School Breakfast Programs provide additional guidance concerning the Offer versus Serve provision at lunch.

(b.) Breakfast

(i.) Students must be offered all four-food items as listed in the Traditional School Breakfast Pattern chart in § 955. K. SFAs are allowed, but not required, to implement Offer versus Serve at breakfast. Under this provision, students may decline one food item. The decision as to which food item to decline rests solely with the student. In schools not implementing Offer versus Serve, a student must take full portions of all food items offered.

(ii.) Three food items from at least two different food components are required for a reimbursable breakfast. To count as a component, the student must take a full serving of that component. The full serving may be one food item or may be split among two or more food items of the same component (i.e. grains/breads or meat/meat alternate), as long as the combined total quantity served is equal to a full serving of that component: for example, one full serving equals ½ slice toast and ½ oz. whole grain or enriched cereal or ½ oz. lean meat and ½ oz. cheese.

(iii.) However, if the student selected only a half-serving of grains/breads and a half-serving of meat/meat alternate such as a half slice of cheese toast (½ oz. cheese + ½ slice bread), no credit would be given for either the meat/meat alternate or the grains/breads.

(iv.) A double serving of grains/breads or meat/meat alternate will count as two food items toward the breakfast requirements: e.g., one large biscuit (2 oz.) or egg and cheese omelet (½ large egg and 1 oz. cheese). A second serving of vegetable/fruit or a second serving of milk will not count toward the breakfast requirements.

(v.) Combination food items—such as breakfast pizzas, burritos or fruit turnovers—can be counted as only two items, regardless of the size, weight, or number of food items the product contains.

(vi.) The USDA Healthy School Meals Training Manual, Meal Pattern Requirements and Offer versus Serve Manual (FNS-265) and the USDA video, Recognizing Reimbursable Meals in the National School Lunch and School Breakfast Programs provide additional information concerning the Offer versus Serve provision at breakfast.

g. Nutrient Standards and Analysis Requirements

i. SFAs shall ensure that participating schools provide nutritious and well-balanced meals that meet the Nutrient Standards as required by program regulations. The State Agency shall conduct a nutrient analysis of menus for one school week to determine whether the Nutrient Standards have been met. (Refer to §955, A, “Required Nutrient Standards for Traditional Food Based Menu Planning.”) If the SFA chooses to conduct its own analysis, the State Agency will review the SFA's nutrient analysis. SFAs must follow Nutrient Standard Menu Planning protocols to use the SFA's analysis. (Refer to §905, Computerized Nutrient Analysis” for additional information.)

h. Substitutions

i. The school meal patterns specify fluid milk as a component; the only substitutions allowed are for documented medical reasons on a case by case basis. (Refer to §927.; “Meal Substitutions for Medical or Dietary Reasons.”) Ethnic or religious reasons may also permit substitutions if approved by the Food and Nutrition Services of USDA. (Contact the State Agency for specific information.)

2. Enhanced Food Based Menu Planning

a. The Enhanced Food Based Menu Planning option requires the use of foods from four specific food groups that are called food components. These foods must be included in the menu each day. A minimum number of servings per day and/or per week are specified for each food component.

b. Lunch menus must be planned to meet daily/weekly food component and meal pattern requirements. A lunch must contain a specified quantity of each of four required food components. A minimum of five food items, as shown below, must be offered each day.

I. Lunch Required Components/Food Items

Lunch Food Components	Lunch Food Items	Sample Lunch
Meat/Meat Alternate	1. Meat/Meat Alternate	Oven Baked Chicken
Vegetable/Fruit	2. Vegetable/Fruit	Green Beans
Grains/Breads	3. Vegetable/Fruit	Chilled Peaches
Milk	4. Grains/Breads	Whole Wheat Roll
	5. Milk	Milk

c. Breakfast menus must be planned to meet daily meal pattern requirements. Students must be offered four food items at breakfast. The food items must be offered in one of the three combinations listed below.

i. Breakfast Combinations Containing Required Components

Combination 1	Or Combination 2	Or Combination 3
1 Serving Milk	1 Serving Milk	1 Serving Milk
1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable	1 Juice/Fruit/Vegetable
2 Grains/Breads	2 Meat/Meat Alternates	1 Grains/Breads
		1 Meat/Meat Alternate
Sample Breakfast	Sample Breakfast	Sample Breakfast
Combination 1	Combination 2	Combination 3
Chocolate Milk	Lowfat Unflavored Milk	Whole Milk
Hash Brown Potatoes	Orange Juice	Fresh Strawberries
Large Biscuit (2 oz.)	Scrambled Egg	Cheese Toast
	Sausage Link	

d. Fluid milk and a food item selected from the Juice/Fruit/Vegetable component must always be offered. The fluid milk may be served as a beverage or on cereal or both; choices of whole milk, reduced fat milk, and lowfat milk should be offered whenever possible.

e. Menu Components

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Enhanced School Lunch/Breakfast Pattern charts found in §955. M. and N. Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by grade groups; however, if a school chooses not to vary portion

sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, the school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a.) Meat/Meat Alternate

(i.) The Any food item used to meet the meat/meat alternate requirement must be listed in the USDA Food Buying Guide or must have a Child Nutrition (CN) label or a certified product formulation statement. Foods that may be counted as a meat/meat alternate include lean meat, poultry or fish; cheese; egg; cooked dry beans or peas; peanut butter or other nut or seed butters; yogurt; peanuts, soybeans, tree nuts, or seeds. Alternate protein products, as outlined in this section, may also be used as meat alternates. If schools do not offer choices of meat/meat alternates each day, it is recommended that no one meat alternate or form of meat (e.g., ground, diced, pieces) be served more than three times in a single week.

(ii.) The quantity of meat or meat alternate shall be the quantity of the edible portion as served. To be counted as meeting this requirement, the meat or meat alternate shall be served either in a main dish or in a main dish and only one other menu item: that is, two menu items are the maximum number that may be used to meet the meat/meat alternate requirement. When two menu items are used, the combination must total the minimum quantity required, and the items should be merchandised together and served as a single item. For example, a soup and sandwich combo may be offered as a menu combination. (For quantity requirements by age/grade groups, refer to §955. M. and N: Enhanced School Lunch/Breakfast Pattern charts.)

(iii.) Small amounts (less than ¼ oz.) of meat/meat alternates used as garnishes, seasoning, or in breading do not count toward meeting the quantity requirement of the meal. Examples are grated parmesan cheese used as a garnish over spaghetti or egg used in breading. Although use of such garnishes is encouraged, the amounts are not sufficient to make a real nutritional contribution to the meal.

(iv.) Cooked dry beans/peas may be used as a meat/meat alternate or as a vegetable/fruit but cannot meet the requirement for both components in the same meal. The serving size of cooked dry beans/peas is measured by volume, not weight.

(v.) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt is credited at a ratio of four ounces (weight) or one-half cup (volume) of yogurt for one ounce of meat; the smallest portion that may be credited is two ounces (weight) or one-fourth cup (volume). To be counted, a product must meet the standard of identity for yogurt established by the Federal Drug Administration; noncommercial and/or nonstandardized products such as frozen yogurt, homemade yogurt, drinkable yogurt products, yogurt-flavored products, yogurt bars, yogurt-covered fruit and/or nuts or similar items cannot be used. Yogurt may be either plain or flavored, unsweetened or sweetened, fruited or nonfruited; however, the fruit in commercial fruited yogurt products cannot be credited toward the vegetable/fruit component.

(vi.) Nuts and seeds - such as peanuts, soybeans, almonds, pecans, and walnuts - may be used to meet only one-half of the total meat requirement for lunch and must be combined in the same meal with other meat or meat alternates to provide at least the minimum quantity needed for the various age/grade groups. Only one ounce can be served at breakfast. Acorns, chestnuts, and coconuts cannot be counted as a meat alternate.

(vii.) Lowfat and reduced fat cheeses may be credited toward meeting meal pattern requirements on an ounce-per-ounce basis, the same as regular fat cheeses. These products may be served alone or in combination with regular cheese. Cheese food substitutes and cheese spread substitutes have a specific standard of identity and receive the same credit as cheese foods and cheese spreads (two ounces provide one ounce of equivalent meat alternate). Cheese substitutes (natural or processed) include reduced fat, lite, or nonfat products. Any product that is labeled as "imitation" or that has only the name "cheese product" cannot be counted toward the meat requirement.

(viii.) Two alternate foods are authorized to meet part of the meat/meat alternate requirement: enriched macaroni with fortified protein and alternate protein products (APP).

[1.] Enriched Macaroni With Fortified Protein

[a.] Dry enriched macaroni with fortified protein may be used to meet no more than 50 percent of the meat requirement and must be combined with meat, poultry, fish, or cheese. An enriched macaroni product with fortified protein may credit toward the meat/meat alternate or the grains/breads requirement, but not as both components in the same meal. Only those products that appear on the USDA listing of acceptable enriched macaroni with fortified protein and that have the following statement on the label may be used: "One ounce dry weight of this product meets one-half of the meat or meat alternate requirements of lunch or supper of the USDA Child Nutrition Programs when served in combination with one or more ounces of cooked meat, poultry, fish, or cheese." (Contact the State Agency concerning the current list of Approved Enriched Macaroni With Fortified Protein.)

[2.] Alternate Protein Products

[a.] A SFA may use alternate protein products to fulfill all or part of the meat/meat alternate component in the Enhanced Food Based Menu Pattern. Alternate protein products may be used alone or in combination with other food ingredients. They may be used in the dry form (nonhydrated), partially hydrated form, or fully hydrated form. The moisture content of the fully hydrated product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

[b.] Schools may use commercially prepared meat or meat alternate products combined with alternate protein products or may use a commercially prepared product that contains only alternate protein products.

[c.] An alternate protein product whether used alone or in combination with meat or other meat alternates must meet the criteria listed below.

[i.] The product must be processed so that some portion of the nonprotein constituents of the food is removed and must be a safe and suitable edible product produced from plant or animal sources.

[ii.] The biological quality of the protein must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

[iii.] The product must contain at least 18 percent protein by weight when fully hydrated or formulated. Hydrated or formulated refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances that have been added.

[d.] Manufacturers supplying an alternate protein product must provide documentation that the product meets all of the above criteria. In addition, manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an "as prepared" basis.

[e.] Manufacturers should provide the following information for an alternate protein product mix:

[i.] the amount by weight of dry alternate protein product in the package;

[ii.] hydration instructions; and

[iii.] instructions on how to combine the mix with meat or other meat alternates.

(b). Vegetable/Fruit

(i.) Two or more servings of different vegetables and/or fruits must be offered to meet the vegetable/fruit requirement at lunch. Menu items such as fruit cocktail or mixed vegetables are considered as only one serving. However, large combination vegetable/fruit salads served as an entree that contains at least the minimum daily quantity of vegetables/fruits in combination with a meat/meat alternate—such as a chef’s salad or a fruit plate with cottage cheese—are considered as two (or more) servings of vegetable/fruit and will meet the full requirement.

(ii.) For children in kindergarten through grade six, the lunch requirement for the vegetable/fruit component is based on minimum daily servings plus an additional ½ cup in any combination over a five-day period. (Refer to the Enhanced School Lunch/Breakfast Pattern charts in §955. M. and N. for specific serving sizes or quantity requirements by age/grade groups.)

(iii.) Full-strength vegetable or fruit juice may not be used to meet more than one-half of the total vegetable/fruit requirement at lunch. Any product, liquid or frozen, labeled as “juice,” “full-strength juice,” “single-strength juice,” or “reconstituted juice” is considered full strength. Liquid or frozen “juice drinks” may contain only a small amount of full-strength juice. If used to meet a part of the vegetable/fruit requirement for lunch, the product must contain a minimum of 50% full-strength juice.; Only the full-strength juice portion may be counted toward meeting the vegetable/fruit component requirement. At breakfast, only full-strength juice may be counted toward meeting the vegetable/fruit requirement.

(iv.) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but not as both food components in the same meal. Potato chips, corn chips, and other similar chips may not be counted as a vegetable/fruit.

Small amounts (less than 1/8 cup) of vegetables/fruits used for flavoring or as a garnish, may not be counted toward the vegetable/fruit requirement.

(v.) Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the Fruit/Vegetable contribution. In situations where When neither is not the case, a certified product formation statement on the product from the manufacturer yield information on the product must be maintained on file in the SFA to indicate the contribution toward the meal requirements.

(c.) Grains/Breads

(i.) Unlike other components, the grains/breads requirement is based on minimum daily servings and total servings per week. The daily minimum requirement of grains/breads for children ages three and over is one serving per day and eight servings over a five day week; 12 servings per week for grades K-6; 15 servings per week for grades 7-12; and a 10 servings per week option for grades K-3. For each day less than a five day week, the school may decrease the number of servings per week by approximately 20 percent (one-fifth). For Residential Child Care Institutions (RCCIs), the number of servings should be increased by approximately 20 percent (one-fifth) for each day beyond the five day week. (Use the chart below to help determine the number of grains/breads servings needed.)

(ii.) Number of Required Grains/Breads

Servings

Days in Week	Preschool	Grades K-6	Grades 7-12	Optional Grades K-3
7	11¼	17	21	14
6	9¾	14½	18	12
5	8	12	15	10
4	6½	9¾	12	8
3	5	7¼	9	6
2	3¾	5	6	4
1	1¼	2½	3	2

(iii.) At least one full-sized serving of grains/breads must be offered with lunch each day. When a school offers a choice of two menus or more menus, the largest number of grains/breads servings offered is counted toward the per week requirement. One-fourth of a serving is the smallest amount that can be credited toward the grains/breads requirement. Grains/breads servings offered at breakfast cannot be counted as contributing to the requirements for lunch.

(iv.) Up to one grains/bread serving per day may be a dessert for grades K-12; dessert type items may not be counted as a grains/breads serving for preschool students. Snack type items such as hard pretzels and chips made from enriched or whole-grain meal or flour as well as bran and/or germ may be credited. (Refer to the Grains/Breads for Food Based Menu Planning chart in §955. L. for specific food item and serving size requirements.)

(v.) Enriched macaroni products with fortified protein may be used to meet the grains/breads requirement or to meet a part of the meat/meat alternate requirement but not both in the same meal. (Refer to

§911.A.2.e (a)(viii.), “Meat/Meat Alternate, Enriched Macaroni with Fortified Protein.”)

(vi.) The criteria listed below are used as the bases for crediting items to meet the grains/breads requirement. (For specific food item and serving size requirements, refer to the Grains/Breads for Food Based Menu Planning chart, §955. L.)

[1.] All grains/breads items must be enriched or whole grain or be made from enriched or whole grain meal or flour; or if the item is a cereal, the product must be whole grain, enriched or fortified. Bran and germ are credited the same as enriched or whole grain meal or flour. Crediting of foods is determined by the total amount of enriched flour and/or whole-grain in the recipe and by the number of servings the recipe yields. When enriched or whole-grain meal and/or flour are used as an ingredient in a product or in a recipe, 14.75 grams of the meal and/or flour must be present in order for the serving to be counted as one full serving.

[2.] The label must indicate that the product is enriched or whole grain; is made from enriched or whole grain meal or flour, as well as bran and/or germ; or fortified. If the product is enriched, the item must meet the Food and Drug Administration’s Standards of Identity for enriched bread, macaroni and noodle products, rice, or cornmeal.

[3.] The item must be provided in quantities specified in the regulations and in minimum serving sizes as specified in the Grains/Breads for Food Based Menu Planning chart in § 955. L.

(c.) Milk

(i.) Schools are required to offer milk as a beverage. All milk served shall be pasteurized fluid types of milk that meet State and local standards. Whole and unflavored lowfat milk should be offered. Lowfat milk is defined by the Food and Drug Administration (FDA) as milk that contains one percent or less milk fat.

(ii.) Schools are required to offer a variety of fluid milk consistent with student preferences in the prior year; however, if a specific type of milk represents less than 1% of the total amount of milk consumed in the previous year, the school may elect not to offer that particular type of milk. Each student must be allowed to select his/her choice from the milk varieties available. If a milkshake is offered as part of the reimbursable lunch, it must contain, at a minimum, eight ounces of fluid milk.

(iii.) Milk can never be offered as a choice against another beverage. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student’s decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(iv.) The school meal patterns specify fluid milk as a component; the only substitutions allowed are for documented medical reasons on a case by case basis. (Refer to §927, “Meal Substitutions for Medical or Dietary Reasons.” Ethnic or religious reasons may also permit substitutions. (Contact the State Agency for specific information.)

(d.) Other Foods

(i.) Other foods refers to food items that do not meet the requirements for any component in the meal patterns. They are frequently used as condiments and seasonings, to improve meal acceptability, and to satisfy the students' appetites. Other foods supply calories that help to meet the energy needs of growing children and contribute varying amounts of protein, vitamins, and minerals essential to good nutrition. Since many of these foods are high in salt, sugar, or fat, the amount and frequency of use should be limited. Other foods must be included as part of the nutrient analysis conducted.

f. Offer Versus Serve

i. Offer versus Serve is a serving method designed to reduce food waste and program costs without jeopardizing the nutritional integrity of the meals offered and served to students. SFAs are required to implement Offer versus Serve at the senior high grade levels at lunch; this option may be extended to students below the senior high level. Offer versus Serve is optional at all grade levels at breakfast.

ii. In schools not implementing Offer versus Serve, a student must take all food items offered. In schools implementing Offer versus Serve, students are allowed to refuse a specified number of food items as described below. The refused food item may be any of the food items offered. Offer versus Serve does not affect the unit price of the meal; the price remains the same regardless of whether students select three, four, or all five food items offered.

(a.) Lunch

(i.) Students must be offered all five required food items at lunch. The serving size of each of the five food items must equal the minimum quantities as specified in the Enhanced School Lunch Pattern chart in §955. M. Two separate vegetable/fruit food items must be offered. The combined serving size of these items must total the required minimum quantity by age/grade group for the vegetable/fruit component.

(ii.) Senior high school students shall be permitted to decline a maximum of two of the five required food items. For a lunch to be reimbursable, a senior high school student must take the full portions of three of the five required food items offered. Students are not required to take specific food items as long as at least three of the five items offered are chosen.

(iii.) Offer versus Serve is optional for elementary, middle, and junior high school students. When Offer versus serve is implemented at the elementary middle or junior high levels, the SFA may decide whether a student is allowed to decline two food items or only one food item. If the SFA elects the four-food item minimum, a three-item lunch is incomplete and cannot be claimed for reimbursement.

(iv.) When a student has turned down a full portion of one or two items, the student may be offered a smaller portion of those items. However, the smaller portion(s) cannot count toward meeting the requirements for a reimbursable meal. Double servings of any food item will not count as two of the required items. The required three or four servings must be from different food items.

(v.) A combination of two different meat/meat alternates may be served in the main dish and one

other menu item; however, Both items must be taken in order to count the meat/meat alternate food item toward meeting the requirements of a reimbursable meal. The smallest serving size that can be counted as a vegetable/fruit component is 1/8 cup only if 1/8 cup was the planned serving size. For two servings of different fruit/vegetable items to count as two of the required food items, the serving sizes must meet the component quantity requirements for that grade group. For example, if using the two meal patterns, the two different fruit/vegetable items together must equal 1/2 cup for K-3 students and 3/4 cup for 4-12 students.

(vi.) The USDA Healthy School Meals Training Manual, Meal Pattern Requirements and Offer versus Serve Manual (FNS-265) and the USDA video, Recognizing Reimbursable Meals in the National School Lunch and School Breakfast Programs provide additional guidance concerning the Offer versus Serve provision at lunch.

(b.) Breakfast

(i.) Students must be offered all four-food items as listed in the Enhanced School Breakfast Pattern chart in §955. N. SFAs are allowed, but not required to implement Offer versus Serve at breakfast. Under this provision, S students may decline one food item. The decision as to which food item to decline rests solely with the student. In schools not implementing Offer versus Serve, a student must take full portions of all food items offered.

(ii.) Three food items from at least two different food components are required for a reimbursable breakfast. For the component to count as a component, the student must take a full serving of that component. The full serving may be one food item or may be split among two or more food items of the same component (i.e. grains/breads or meat/meat alternate), as long as the combined total quantity served is equal to a full serving of that component: for example, one full serving equals 1/2 slice toast and 1/2 oz. whole grain or enriched cereal or 1/2 oz. lean meat and 1/2 oz. cheese.

(iii.) However, if the student selected only a half-serving of grains/breads and a half-serving of meat/meat alternate such as a half slice of cheese toast (1/2 oz. cheese + 1/2 slice bread), no credit would be given for either the meat/meat alternate or the grains/breads.

(iv.) A double serving of grains/breads or meat/meat alternate will count as two food items toward the breakfast requirements: e.g., one large biscuit (2 oz.) or egg and cheese omelet (1/2 large egg and 1 oz. cheese). A second serving of vegetable/fruit or a second serving of milk will not count toward the breakfast requirements.

(v.) Combination food items—such as breakfast pizzas, burritos or fruit turnovers—can be counted as only two items, regardless of the size, weight, or number of food items the product contains.

(vi.) The USDA Healthy School Meals Training Manual, Meal Pattern Requirements and Offer versus Serve Manual (FNS-265) and the USDA video, Recognizing Reimbursable Meals in the National School Lunch and School Breakfast Programs provide additional guidance concerning the Offer versus Serve provision at breakfast.

g. Nutrient Standards and Analysis Requirements

SFAs shall ensure that participating schools provide nutritious and well-balanced meals that meet the Nutrient Standards as required by program regulations. The State Agency shall conduct a nutrient analysis of menus for one school week to determine whether the Nutrient Standards have been met. (Refer to § 955. B.: Required Nutrient Standards for Enhanced Food Based Menu Planning.) If the SFA chooses to conduct its own analysis, the State Agency will review the SFA's nutrient analysis. SFAs must follow Nutrient Standard Menu Planning protocols to use the SFA's analysis. (Refer to §905, "Computerized Nutrient Analysis for additional information.")

h. Substitutions

i. The school meal patterns specify fluid milk as a component; the only substitutions allowed are for documented medical reasons on a case by case basis. (Refer to §927.: "Meal Substitutions for Medical or Dietary Reasons.") Ethnic or religious reasons may also permit substitutions if approved by the Food and Nutrition Services of USDA. (Contact the State Agency for specific information.)

3. Nutrient Standard Menu Planning (NSMP)

a. Nutrient Standard Menu Planning (NSMP) requires that meals are planned to meet the appropriate Nutrient Standards and requires computerized nutrient analysis of school meals using a USDA approved software program. NSMP allows menu planners to break away from the food-based method of planning menus and use a variety of foods to meet the Nutrient Standards without requiring specific food components, with the exception of fluid milk, or and no required amounts, except that Food of Minimal Nutritional Value (FMNV) do not count when served alone.

b. There are three required categories of menu items for lunch. Students must be offered, at a minimum, one serving from each of these categories:

- i. entrée;
- ii. side dish(es);
- iii. fluid milk.

c. Breakfast consists of a minimum of three menu items from two categories:

- i. fluid milk (1 item);
- ii. other menu items (2 items).

d. Although only three menu items are required to be offered at lunch and breakfast, SFAs may need to offer more than three to meet the Nutrient Standards. There are no minimum quantities for any menu item.

e. Choices may be offered within each menu category for lunch and breakfast. However, the number of choices offered does not affect the number of menu items that will constitute a reimbursable breakfast or lunch. The menu planner must assure that the correct number of items is offered and that each week's menu meets the Nutrient Standards.

f. Menu Items

i. In NSMP, the menu planner uses menu items instead of food components and food items. A menu item may be a single food or a combination of foods. Whether a food can be counted as one or two menu items is determined by the way the food is served. If two or more foods are grouped together, the food items may be counted as one menu item. If the food items are served separately, they are counted as two menu items: for example, a hamburger patty

served on a bun is counted as one menu item, but a hamburger patty served with a bun on the side is counted as two menu items.

One Item	Two Items
Hamburger Patty served on a Bun	Hamburger Patty and Bun served separately
Turkey and Gravy served with Mashed Potatoes	Turkey and Gravy served separately from Mashed Potatoes
Broccoli with Cheese Sauce	Broccoli with Cheese Sauce offered separately
Sausage Biscuit	Sausage and Biscuits served separately

(a.) Entree

(i.) An entree is a menu item that is a combination of foods or a single food that is served as the main dish. The entree may be any food (i.e., meat, grain, bread, fruit, vegetable, etc.) except fluid milk, condiments, or a food of minimal nutritional value. There is no entree requirement at breakfast. (Refer to §955, O., for a listing of foods of minimal nutritional value.)

(b.) Side Dish(es)

(i.) Any menu item offered other than the entree and milk is considered a side dish. The side dish may be any food except condiments or those foods of minimal nutritional value or have foods of minimal nutritional value as the main ingredient.

(c.) Milk

(i.) Schools are required to offer fluid milk as a beverage at lunch or as a beverage or on cereal at breakfast. All milk served shall be pasteurized fluid types of milk that meet State and local standards. Whole and unflavored lowfat milk should be offered. Lowfat milk is defined by the Food and Drug Administration (FDA) as milk that contains no more than three (3) grams of fat per eight (8) fluid ounce serving.

(ii.) Schools are required to offer a variety of fluid milk consistent with student preferences in the prior year; however, if a specific type of milk represents less than 1% of the total amount of milk consumed in the previous year, the school may elect not to offer that particular type of milk. Each student must be allowed to select his/her choice from the milk varieties available.

(iii.) No other beverage may ever be offered as a choice against milk. A school may offer another beverage in addition to milk as long as students can take both at no extra charge. A student who accepts milk shall not be charged an additional amount for juice or bottled water if these items are given away at no charge to those students who refuse milk. The student's decision to accept or decline milk cannot be used to determine whether the school will charge that student for another beverage.

(d.) Other Menu Items

(i.) The category, other menu items, refers to any food other than the entree, fluid milk and foods of minimal nutritional value. (Refer to §955, O. for a listing of Foods of Minimal Nutritional Value.) The menu planner may consider the "other menu items" category to be side dishes. Condiments such as relishes, catsup, mustard, mayonnaise, jelly, syrup, gravy, etc. may not be counted as other menu items.

Sample Lunch Menu Items	Category
Hamburger on Bun	Entree
Vegetarian Pasta Salad	Entree
Baked Potato	Entrée
Fruit Salad	Side Dish
Yeast Roll	Side Dish
Oatmeal Cookie	Side Dish
Choice of Fluid Milks	Fluid Milk

Sample Breakfast Menu Items	Category
Choice of Cereal	Other Menu Items
Sausage Biscuit	Other Menu Items
Mixed Fruit Cup	Other Menu Items
Choice of Fruit Juice	Other Items
Choice of Fluid Milks	Fluid Milk

g. Theme Bars

i. Theme bars—such as salad bars, pasta bars, potato bars—may be offered and counted as a reimbursable lunch if they consist of an entree, at least one side dish, and fluid milk.

h. Bag Lunches/Special Meals

i. Meals for field trips or special occasions should be included in the menu analysis. These meals, whether breakfast or lunch, are required to have the minimum number of menu items.

i. Offer Versus Serve

i. Offer versus Serve is a serving method designed to reduce food waste and food costs in the school food service program without jeopardizing the nutritional integrity of the meals offered and served to students. SFAs are required to implement Offer versus Serve at the senior high grade levels at lunch and may implement at elementary, middle and junior high levels. It is optional at all grade levels at breakfast. In schools not implementing Offer versus Serve, a student must take all menu items offered.

ii. Offer versus Serve does not affect the unit price of the meal. The price remains the same regardless of the number of menu items selected.

iii. When implementing Offer versus Serve, the menu planner must first establish how many menu items will constitute a reimbursable lunch or breakfast. SFAs may choose to offer more than the three required items at breakfast and lunch, but it is recommended that the maximum number of items a student may select for a reimbursable meal does not vary from day to day. Students cannot select two servings of the same menu item at breakfast or lunch (i.e., two entrees or two servings of the same side dish) and have them count toward meeting a reimbursable meal.

(a.) Lunch

(i.) Students must be offered, at a minimum, three menu items for lunch: an entree, a side dish, and fluid milk. The student must always select the entree in order to have a reimbursable lunch. When only three menu items are offered, the student may decline only one item; two items must be selected: the entree and either the side dish or the milk. When more than three menu items are offered, the student may decline no more than two items. With the exception of the entrée, the decision as to which other items to decline rests solely with the student.

Number of Menu Items Offered	Maximum Number That Can Be Declined
3	1
4	2
5	2
6	2

(b.) Breakfast

(i.) Students must be offered a minimum of three menu items for breakfast: fluid milk and two menu items. Regardless of the number of items offered for breakfast, the student may decline a maximum of only one item. Therefore, if three items are offered, the student must select two items; and if four items are offered, the student must select three. The decision as to which item to decline rests solely with the student.

Number of Menu Items Offered	Maximum Number That Can Be Declined
3	1
4	1
5	1
6	1

j. Menu Substitutions

i. Menu substitutions change the nutrient content of a meal; therefore, menus may need to be reanalyzed to ensure that the Nutrient Standards are still being met. Substitutions should be made with a similar food that 1) plays the same role in the meal—such as, an entree, side dish, or other food and 2) is the same type of food: such as meat, fruit, vegetable, bread.

ii. The menu must be reanalyzed if the need for a substitution is known two weeks (14 calendar days) or more prior to the day the original menu item was to be served. When the need to substitute is known for fewer than two weeks (13 calendar days or less), reanalysis is not required; but efforts should be made to substitute a similar food with comparable nutritive value.

iii. The USDA requires a tracking system that documents when the school/site was aware that the substitution was needed and what item(s) were substituted. In addition, substitutions shall be recorded on the Daily Food Production Record.

k. Nutrient Standards and Analysis Requirements

i. SFAs are required to conduct and maintain on a continuous basis nutrient analyses of lunch and breakfast menus prior to meal service. Only USDA approved software may be used to conduct the analyses.

ii. SFAs are allowed the flexibility to use §955.C, "The Nutrient Standards from the Required Grade Groupings," §955.D, "The Optional Age Groupings," or customized groupings that correspond to the age groups within a specific school/site. (Refer to USDA's Healthy School Meals Manual for additional information on customizing.)

l. Substitutions

i. The school meal patterns specify fluid milk as a component; the only substitutions allowed are for documented medical reasons on a case by case basis. (Refer to §927; "Meal Substitutions for Medical or Dietary Reasons.") Ethnic or religious reasons may also permit substitutions if approved by the Food and Nutrition Services

of USDA. (Contact the State Agency for specific information.)

4. Assisted Nutrient Standard Menu Planning

a. Assisted Nutrient Standard Menu Planning (ANSMP) is designed for SFAs that lack the technical resources to implement Nutrient Standard Menu Planning but would like to take advantage of its features. This option allows SFAs to use the expertise of outside entities—such as other SFAs, the State Agency, or a consultant—to develop a cycle menu, recipes, procurement specifications and production schedules that will allow school meals to meet the Nutrient Standards. These menus, recipes, etc. must be followed precisely. The SFA must have State Agency approval of initial menu cycle along with nutrient analysis, recipes, product specifications, and any other documentation requested by the State Agency. (For specific requirements, refer to §911.A.3.; "Nutrient Standard Menu Planning.")

5. Any Reasonable Approach

a. On May 29, 1996, President Clinton signed Public Law 104-149, the Healthy Meals for Children Act, which provides that schools may use any reasonable approach to menu planning that will achieve compliance with the nutrition standards as long as the approach conforms to guidelines issued by the Department of Agriculture. SFAs must obtain State Agency approval prior to implementation. (Contact your State Agency for guidelines.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§913 Infant Meal Patterns

A. Infants under one year of age shall be served an infant breakfast and/or lunch as specified in §955. P. Foods within the infant meal patterns shall be of the texture and consistency appropriate for the particular age group being served and shall be served to the infant during a span of time consistent with the infant's eating habits.

B. For infants four through seven months, solid foods are optional; solid foods should be introduced only when the infant is developmentally ready. Breast milk or iron-fortified infant formula shall be served to all infants that are less than one year of age.

1. Minimum Quantity Requirements for Breast Milk

a. Since some breastfed infants regularly consume less than the minimum required amount of breast milk, regulations allow a SFA to serve these infants less than the minimum required amount. In these situations, additional breast milk must be offered if the infant is still hungry. It is stressed that this provision is allowed for only breast milk. A SFA must offer required minimum servings for iron-fortified infant formula and other components of the infant meal pattern.

2. Care and Handling of Breast Milk

a. The SFA must ensure that breast milk is stored and handled properly to prevent any contamination. All breast milk served to infants must be labeled with the infant's name and date provided. SFAs must ensure that each child is served only the breast milk supplied by its mother.

3. Reimbursement For Infant Meals

a. A SFA may claim reimbursement for meals that are served to infants younger than four months of age and that contain only breast milk and no other items or four to

eight months when breast milk or breast milk and one other item is provided. This regulation applies only to meals for which milk is the only required item and for which breast milk is served. If iron-fortified infant formula is served and is provided by the parent or an agency other than the SFA, reimbursement may not be claimed.

b. Meals served to infants eight months of age or older that require breast milk and at least one additional item cannot be claimed for reimbursement unless the SFA provides at least one item. Also, if the parent supplies the formula, the meal cannot be claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§915 Parent and Student Involvement

A. The SFA shall promote activities to involve students and parents in the Child Nutrition Program(s). Such activities may include menu planning, enhancement of the eating environment, program promotion, and related student-community support activities. SFAs are encouraged to use the school food service program to teach students about good nutrition practices and to involve the school faculty and the general community in activities to enhance the program. (For additional guidance on parent and student involvement, contact the Division of Nutrition Assistance.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§917. Unit Price

A. All meals shall be priced as a unit. A la carte food service is not permitted. The prices of a reimbursable lunch or breakfast shall not be affected if a student declines any of the food items under the Offer versus Serve provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§919 Meal Times/Split Meals

A. Breakfast must be served at the beginning of a school day and should be served a minimum of three hours before lunch. Lunch shall be served at or about midday during a period designated by the school administrator. Lunch shall occur between 10:00 a.m. and 2:00 p.m. On school days with an early dismissal, there may not be adequate time for both breakfast and lunch service. The SFA may find it advisable to serve one meal and claim only lunch reimbursement for a brunch-style meal. The required lunch components and quantities must be offered between 10:00 a.m. and 2:00 p.m.

B. With written State approval, schools that serve lunch to children one to five years of age may divide the service of the specified quantities and food items into two distinct service periods.

C. The benefits derived from school meals depend to a large extent on the environment in which they are served. Schools are encouraged to provide adequate time for all students to consume their meals fully in an environment that is conducive to eating those meals. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§921 Counter Service

A. Counter service for all ages with each student handling his or her own plate/tray is required. Menu items shall be served as the student passes down the serving line; plates/trays shall not be preplated. The only exceptions to this serving method are bag lunches, preplated box lunches, cold plates, etc. Variations from counter service and preplating may be allowed for preschool and disabled children. For disabled students, the meal must be served in a manner most suited to the needs of the student. All adults shall be served in front of the regular serving counter.

B. Appropriate flatware and tableware shall be provided at every meal. Spoons should be provided when soup, cold cereal, etc. are served; forks should be provided daily. Plates, trays, and/or food containers shall be used for lunch and breakfast. These meals are not snacks: they must not be served on napkins. Paper napkins and wrapped or dispensed straws shall be provided to all students and adults.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§923 Self Service

A. Self service with students serving themselves is permitted under the conditions listed below.

1. Sneeze guards must be used to protect food.

2. Sufficient long-handled utensils must be available for service.

3. Adequate monitoring must ensure that sanitary food handling practices are followed.

4. Adequate monitoring must ensure that a reimbursable meal is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§925 Plate/Tray Count

A. Daily plate/tray counts of breakfast and lunch are mandatory in all schools using a manual system for counting meals. Plate counts are optional for systems using a computerized point of service count.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§927 Meal Substitutions for Medical or Dietary Reasons

A. To qualify for reimbursement, schools must provide meals that contain all required food/menu items, as identified by the menu planning method selected by the SFA. School meals must also comply with the nutrition standards and the nutrient and calorie levels as specified by Federal Regulations. However, meal substitutions or modifications served to students with documented medical or special dietary needs are considered reimbursable and are allowed under the conditions summarized in this section.

B. Any changes to the regular school meal for medical or special dietary reasons must be appropriately documented. Changes to existing diet orders must also be documented. This documentation is required to justify that the modified

meal is reimbursable and to ensure that any meal modifications meet nutrition standards that are medically appropriate for the specific child. When special meals or modifications are requested, a form that includes required information should be given to the parent or guardian so that the student's physician may correctly assess the condition and identify meal changes. (Refer to §955. Q. for a prototype form that may be used to obtain needed information.) Although the form itself is not required, either a physician's statement or a diet prescription that includes the same information is required and must be kept on file in the school.

C. The SFA may need a licensed or registered dietitian to provide information on foods to meet a specific diet order or to provide training to food service employees. Use of school food service funds for this purpose is allowed.

1. Students with Disabilities

a. Schools are required to make substitutions or changes in foods for the student that is unable to eat school meals because of his/her disability. The SFA shall provide these meals at no extra charge to the students whose disability restricts their diet. The students must provide medical certification that details the alternative diet and that certifies that these meals are needed because of the disability.

b. A child with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities. Major life activities are defined to include functions such as "caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." Schools are required to make substitutions or modifications for those children with disabilities who are unable to consume the food/menu items specified by the menu planning method used by the SFA.

c. Food service personnel are not to make the determination of whether a child has a disability as defined above. Food service shall accept the certification of a physician that an individual student has a disability that restricts his/her diet.

d. On a case-by-case basis, a child with a disability that restricts his/her diet shall be provided substitutions or modifications in foods only when supported by a statement signed by a physician licensed by the State. The physician's medical statement of the child's disability must be based on the regulatory criteria for "children with disabilities" and must contain a finding that the disability restricts the diet. The supporting statement shall identify:

- i. the child's disability, as defined under 7 CFR 15b.3 of the USDA's nondiscrimination regulations, and an explanation of how the disability restricts the child's diet;
- ii. the major life activity affected by the disability;
- iii. the food or foods to be omitted from the child's diet; and
- iv. the food or choice of foods that must be substituted.

e. Generally, children with food allergies or intolerance do not have a disability as defined by Federal Regulations. However, it is possible that such food allergies or intolerance will limit a major life activity. When faced with a request for special meals for such children, the food

service personnel must abide by the determination of the physician

f. Food services shall be provided in the most integrated setting appropriate to the needs of children with disabilities. These students must be served in the same dining area as other students unless the Individualized Education Program (IEP) mandates a different location. In situations for which additional food outside the regular meal service is required, school food service is not responsible for this service unless the food service is required under the child's IEP. The school is responsible for any assistance the child needs during meal service. (For additional information, refer to USDA's "Accommodating Children with Special Dietary Needs in the School Nutrition Programs," Guidance for School Food Service Staff, and the IEP Handbook for Students With Disabilities.

2. Students Without Disabilities But With Special Dietary Needs

a. Schools may, at their discretion, make substitutions for individual children who do not have a disability as defined under 7 CFR 15b.3, but who are medically certified as having a special medical or dietary need. Such determinations must be supported by a diet prescription that specifies the need for substitution and that is signed by a recognized medical authority. The State Agency currently accepts the following professionals as recognized medical authorities: physicians, physician assistants, nurse practitioners, and licensed or registered dietitians. A diet prescription submitted by a registered nurse is acceptable only when co-signed by a physician. The diet prescription must include the information provided below:

- i. an identification of the medical or other special dietary need that restricts the child's diet; and
- ii. the food or foods to be omitted from the child's diet and the food or choice of foods to be substituted.

b. Schools are not required to make substitutions for students whose conditions do not meet the definition of "children with disabilities." The special dietary needs of students that do not have a disability may frequently be managed within the regular meal service when a well-planned variety of nutritious foods is available and when Offer versus Serve is implemented.

c. If the authorized substitute foods are not normally kept in inventory or are not generally available in local markets, the parent or guardian should provide the substitute food item prescribed by the recognized medical authority.

3. Ethnic And Religious Variations

a. The Food and Nutrition Services of the USDA may approve variations in the food/menu items required for lunch and breakfast in any school where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic or religious needs. (Contact the State Agency for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§929 Nonstudent Meals

A. The purpose of the school lunch and breakfast programs is to provide nutritious and healthy meals to children. However, certain nonstudents are also allowed to

eat. Neither Federal Reimbursement nor children's payments may be used to subsidize nonstudent meals.

1. School System Employees and Visitors

a. Adults working with the school program, school board employees, parents, and other guests of the school are eligible to purchase meals from the school food service department. All persons except school food service employees, roving or area managers assigned to multiple sites, and certain volunteer personnel shall pay for their meals.

b. Adults shall be served the same meals as students, in portions not to exceed that of senior high school students. All foods and beverages available to adults shall be a part of the regular meals served to the students. Adults may have coffee and tea at meal service at their own expense. Serving of meals to persons having no official relationship or connection with the school is not permissible.

2. School Food Service Employee and Volunteer Meals

a. Only school food service employees are eligible to receive one free breakfast and lunch daily. Volunteers and/or custodians who provide food service assistance may receive a free meal in return for their services. The following chart is a guide to follow when allowing volunteer meals.

Average Daily Participation	Recommended Number of Volunteer Meals
1-300	1
301-500	2
501 and above	3

3. Contract Meals

a. SFAs may contract meal service to nonschool programs such as Head Start, day care programs, and elderly feeding programs. There must be an annual contract between the two agencies stipulating the necessary terms. Contracts should protect both parties and be reviewed by an attorney. (Refer to the sample contract in §955.R.) Copies of new and renewed contracts must be submitted to the State Agency. Contracts will become part of the SFA's Permanent Agreement with the State Agency. (Refer to §527.A.1.f, "Costing of Contract Meals," for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§931 Special Functions

A. Special functions, whether or not the proceeds accrue to school food service, shall not interfere with the preparation and service of school lunch, breakfast, and/or snacks. School food service funds may be used to pay expenses for school functions at which technical information relating to the CN Program is disseminated: for example, the SFA may provide informational materials and refreshments in conjunction with the school's annual open house that would include a cafeteria visit. A school food service employee must be present and information about the CN Program must be provided. A menu worksheet must be completed to document the foods used, the type of activity, the school food service employees present, the informational materials provided, the topics discussed, and the number of persons attending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§933 Catering

A. Before beginning any catering program, it is essential to have the support of the local school board. It is the responsibility of the SFA to ensure that all costs of the event are recouped, as school food service funds cannot be used for nonstudent meals. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities.

B. Separate records must be maintained for catered events for a minimum of three years. All accounting practices shall follow guidelines outlined in Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook.

C. Listed below are additional guidelines that must be followed:

1. Catered functions shall not interfere with the preparation and service of lunch, breakfast and/or snacks.

2. Charges for any product or service must be sufficient to recover all production costs plus a profit. The amount of the profit is at the discretion of the SFA.

3. All monies earned or received shall accrue to the school food service account.

4. The United States Department of Agriculture's donated foods (commodities) cannot be used for catered functions at which the primary recipients are not participating in the SBP, NSLP, or the CACFP.

5. Documentation of the type of event, date and time, foods and supplies used shall be maintained.

6. Documentation of the employees' time shall be maintained.

7. In order to maintain a tax-exempt status, SFAs may wish to limit catering services to schools, school-sponsored events, and nonprofit organizations. Catering events to the private sector may require the SFA to become a taxing entity with requirements to charge and report sales tax. The local district office of the Louisiana Department of Revenue and Taxation, Sales Tax Division, must be contacted for more specific information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§935 Second Servings

A. Participation and food production records must demonstrate that sufficient quantities of foods/menu items are planned and prepared to provide one reimbursable meal (lunch/breakfast) per student per day. Intentional over-preparation is not allowed. Second servings, when available and allowed by the SFA, may be offered at the close of the serving period to students who have consumed a complete meal. Leftovers that can be used in another meal should not be given as second servings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§937 Extra Sales

A. Extra items may be sold only to those who have received a complete meal. The purchase of extras must occur

at the time the meal is received unless the SFA has a procedure in place to determine that a student has received a complete meal. A-la-carte meal service is prohibited. Extra sale items must meet component requirements as defined by Enhanced Food-Based Menu regulations for the Child Nutrition Programs or must be an item offered on the menu that day. The only exceptions are that milkshakes, yogurt, frozen yogurt, ice cream, and ice milk (as defined by the Louisiana Sanitary Code) may be sold as extras. Full-strength juice, and milk, and bottled water (unflavored with no additives) may be sold at any time during the day to students and adults whether or not they have purchased a meal.

B. Schools must maintain proper accountability for extra sale items and must recover the full cost of producing the extra items plus a profit. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities. (Refer to §527.A.1.i, "Pricing for Extra Sales Items," for specific information concerning pricing procedures.) All monies earned or received must accrue to the school food service account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§939 Extended School Sessions

A. Some school systems operate a lunch, breakfast and/or snack program during the summer months for students enrolled in an educational program. The total number of operating days for the school year, which includes both regular and extended school sessions, must be shown on the Schedule A. State approval of this document authorizes the receipt of Federal Reimbursement for the extended school sessions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§941 Competitive Foods

A. Grades K-6

1. Reimbursement for lunch, special milk, and/or breakfast may be withheld from schools if concessions, canteens, snack bars, or vending machines are operated on a profit basis before the end of the last lunch period. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account and expended only for Child Nutrition Program purposes.

B. Grades 7-12

1. Reimbursement for lunch, breakfast, and/or special milk may be withheld from schools if concessions, canteens, snack bars, vending machines or other food sales are operated on a profit basis before the last 10 minutes of each lunch period. The official school schedule shall indicate the time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account, and expended only for the purpose of the Child Nutrition Program(s).

2. However, grades 7-12 (not allowed in K-6) with multiple lunch periods may operate concessions, canteens, snack bars, vending machines, or other food sales between lunch periods if the following guidelines are implemented:

a. No food item shall be sold before the last 10 minutes in each lunch period.

b. Lunch periods shall be divided by a period of time so that students from one period do not come into contact with students from another period.

c. A system shall be in place to ensure that students do not have access to competitive foods before the last 10 minutes of each lunch period.

3. The SFA shall be required to reimburse the school food service account for any funds withheld for violation(s) of the Competitive Foods Policy. Under no circumstances can foods in competition be sold to children in food service areas during the lunch period(s).

4. School systems must establish local rules or regulations as are necessary to control the sale of foods in competition with meals served under the National School Lunch and Breakfast Programs. The State's competitive foods policy will be managed and monitored by both local and State personnel as follows:

5. Local school food service supervisors will provide principals and superintendents with information concerning the Competitive Foods Policy and regulations in regard to enforcement by the Louisiana DOE. The SFA will maintain documents that indicate each school's official schedule that includes designated times for lunch and concessions, if offered.

6. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

7. All complaints received by State DNA personnel regarding competitive foods violations, regardless of the source, will be forwarded to the local school food service supervisor for initial investigation.

8. Monitoring of competitive foods/concessions shall be conducted in the following manner:

a. Local school food service supervisors will have the responsibility to report to their superintendent/immediate supervisor and the principal in writing any competitive foods violations noted in the school. A written corrective action plan will be required from the principal to the superintendent with a copy to the school food service supervisor to ensure compliance.

b. The State or local SFA will make unannounced visits when notifications of violations are received. The school, organization, or individual(s) violating the competitive foods policy shall reimburse the school food service account for any funds withheld from the school food service program.

9. State DNA personnel will monitor competitive foods operations at local school systems on all State reviews or visits and shall have the responsibility and authority to assess fiscal sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§943 Takeout Meal Service

A. Takeout meal service may be offered when there is an established takeout meal service program. Accurate meal counts, nutrition requirements, and sanitation guidelines must be followed. Student meals may not be removed from the school premises with the exception of planned trips. Breakfasts, lunches and/or snacks purchased by school system employees must be consumed on school board

property. Proper disposable flatware and containers must be provided. The removal of permanent service ware from the food service area shall not be allowed. (For additional information, refer to §2507; Food Taken From Schools, and §2127.Sanitation, General Rules.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§945 Handling of Food Waste

A. The Louisiana Sanitary Code prohibits the use of food garbage, either cooked or raw, as feed for swine. If a SFA or school allows any individual/agency to dispose of food waste, a statement that attests to its use must be on file at the school site(s). This statement must be signed by the individual/agency and must indicate that the food waste will not be fed to swine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§947 Donations of Leftover Food/Food Recovery Activities

A. SFAs and school programs may receive inquiries from nonprofit agencies (and the general public) concerning the donation of extra foods prepared by the National School Lunch and Breakfast Programs. Schools may claim reimbursement for only one lunch and/or breakfast served per child per day, and schools are expected to plan and prepare sufficient amounts of food to achieve this goal. However, when the food actually prepared exceeds the amount needed for the reimbursable meal service, leftover foods may be donated to appropriate nonprofit institutions such as soup kitchens or homeless shelters, provided this practice is not prohibited by local laws or regulations and the following conditions are met:

1. participation and menu records demonstrate that overproduction is not intentional;
2. leftover foods cannot be used in the food service program and would otherwise be thrown away;
3. State and local health codes/standards are followed; and
4. on file is a written agreement between the SFA and the nonprofit organization which includes, at a minimum, the following provisions:
 - a. terms of the agreement;
 - b. duties of the school system;
 - c. duties of the contractor;
 - d. nondiscrimination statement;
 - e. statement that the contractor is not an officer, employee, or agent of the school system;
 - f. liability;
 - g. hold harmless and indemnification clause; and
 - h. certification of liability insurance.

B. §955.S. provides for a sample agreement that can be adapted by a SFA desiring to provide leftover food to a charitable nonprofit organization. (For additional information, contact the State Agency.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§949 Use of the Facility

A. When the school food service department is used by the school or community groups for food service, one or more of the school food service employees shall be in charge to ensure control over school food service foods and to ensure proper use and care of equipment and facilities. If the dining facility is used for food preparation activities other than school food service, wages shall be paid by the organization in accordance with current wage and hour regulations. The school food service department may assess a charge for use of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§951 Removal/Transfer of Equipment, Food and Supplies

A. Only authorized personnel may transfer equipment, food and supplies between schools. No foods, including leftovers, shall be removed from the school food service department by any employee of the school system. Legal action could result. Local policies that outline disciplinary action for unauthorized removal of equipment, food or supplies must be in place. (Refer to §2507, "Food Taken from Schools," and §523.H, "Disposition of Equipment" for more information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§953 Foods/Beverages Allowed in Cafeteria During Meal Service

A. School Food Authorities are encouraged to develop a policy that prohibits adults and students from taking carbonated beverages into the cafeteria during meal service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education in LR 27:

§955. Appendices

- A. Required Nutrient Standards for Traditional Food-Based School Lunches and Breakfasts
- B. Required Nutrient Standards for Enhanced Food-Based School Lunches and Breakfasts
- C. Required Nutrient Standards for Nutrient Standard and Assisted Nutrient Standard Lunches and Breakfasts
- D. Optional Nutrient Standards for Nutrient Standard and Assisted Nutrient Menu Planning
- E. Sample Nutritional Analysis Label
- F. Sample Nutrition Facts Label
- G. Sample Child Nutrition (CN) Label
- H. Instructions for Reviewing Product Formulation Statements
- I. Sample Certified Product Formulation Statement For Meat/Meat Alternate Products
- J. Traditional School Lunch Meal Pattern
- K. Traditional School Breakfast Meal Pattern
- L. Grains/Breads for Food Based Menu Planning Chart
- M. Enhanced Food-based Menu Plan for Lunch
- N. Enhanced Food-based Menu Plan for Breakfast
- O. Foods of Minimal Nutritional Value
- P. Infant Breakfast and Lunch Meal Pattern
- Q. Prototype Diet Prescription Form

S.Prototype Form for Contract Meals
 T.Prototype Agreement for Donation of Leftover Food
 Items Sample Certified Product Formulation Statement for
 Prepared Grains/Breads

AUTHORITY NOTE: Promulgated in accordance with R.S.
 17: 191-199.

HISTORICAL NOTE: Promulgated by Board of Elementary
 and Secondary Education in LR 27:

Appendix A

Minimum Requirements For Nutrient Levels For School Lunches Traditional Food-Based Alternative (School Week Averages)				
Nutrients And Energy Allowances	Minimum Requirements			Optional
	Preschool	Grades K-3	GRADES 4-12	GRADES 7-12
Energy allowances (calories)	517	633	785	825
Total fat (as a percentage of actual total food energy)	¹	¹	¹	¹
Total saturated fat (as a percentage of actual total food energy)	²	²	²	²
Protein (g)	7	9	15	16
Calcium (mg)	267	267	370	400
Iron (mg)	3.3	3.3	4.2	4.5
Vitamin A (RE)	150	200	285	300
Vitamin C (mg)	14	15	17	18

¹ Not to exceed 30 percent over a school week

² less than 10 percent over a school week

Minimum Requirements For Nutrient Levels For School Breakfasts Traditional Food-Based Alternative (School Week Averages)		
Nutrient And Energy Allowances	Preschool	Grades K-12
Energy allowances (calories)	388	554
Total fat (as percentage of actual total food energy)	¹	¹
Total saturated fat (as a percentage of actual total food energy)	²	²
Protein (g)	5	10
Calcium (mg)	200	257
Iron (mg)	2.5	3.0
Vitamin A (RE)	113	197
Vitamin C (mg)	11	13

¹ Not To Exceed 30 Percent Over A School Week

² Less Than 10 Percent Over A School Week

Appendix B. Required Grade Nutrient Standards for Enhanced Food Based Menu Planning

Breakfast

Calories and Nutrient Levels for School Breakfast (School Week Averages)			
	Preschool	Grades K-12	Option Grades 7-12
Energy Allowances (calories)	388	554	618
Total fat (as a percentage of actual total food energy)	¹	¹	¹
Total saturated fat (as a percentage of actual total food energy)	²	²	²
Protein (g)	5	10	12
Calcium (mg)	200	257	300
Iron (mg)	2.5	3.0	3.4
Vitamin A (RE)	113	197	225
Vitamin C (mg)	11	13	14

¹ Total fat not to exceed 30 percent over a school week

²Saturated fat to be less than 10 percent over a school week

Lunch

Calories and Nutrient Levels for School Lunch (School Week Averages)				
	Preschool	Grades K-6	Grades 7-12	Grades K-3 Option
Energy Allowances (Calories)	517	664	825	633
Total Fat (as a percentage of actual total food energy)	¹	¹	¹	¹
Total Saturated Fat (as a percentage of actual total food energy)	²	²	²	²
Protein (g)	7	10	16	9
Calcium (mg)	267	286	400	267
Iron (mg)	3.3	3.5	4.5	3.3
Vitamin A (RE)	150	224	300	200
Vitamin C (mg)	14	15	18	15

¹ Total fat not to exceed 30 percent over a school week

²Saturated fat to be less than 10 percent over a school week

Appendix C. Required Grade Nutrient Standards for Nutrient Standard and Assisted Nutrient Standard Menu Planning

Breakfast

Calories and Nutrient Levels for School Breakfast (School Week Averages)			
	Preschool	Grades K-12	Option Grades 7-12
Energy Allowances (calories)	388	554	618
Total fat (as a percentage of actual total food energy)	¹	¹	¹
Total saturated fat (as a percentage of actual total food energy)	²	²	²
Protein (g)	5	10	12
Calcium (mg)	200	257	300
Iron (mg)	2.5	3.0	3.4

Vitamin A (RE)	113	197	225
Vitamin C (mg)	11	13	14

¹Total fat not to exceed 30 percent over a school week.

²Saturated fat to be less than 10 percent over a school week.

Lunch

Calories and Nutrient Levels for School Lunch (School Week Averages)				
	Preschool	Grades K-6	Grades 7-12	Grades K-3 Option
Energy Allowances (Calories)	517	664	825	633
Total Fat (as a percentage of actual food energy)	¹	¹	¹	¹
Total Saturated Fat (as a percentage of actual food energy)	²	²	²	²
Protein (g)	7	10	16	9
Calcium (mg)	267	286	400	267
Iron (mg)	3.3	3.5	4.5	3.3
Vitamin A (RE)	150	224	300	200
Vitamin C (mg)	14	15	18	15

¹Total fat not to exceed 30 percent over a school week.

²Saturated fat to be less than 10 percent over a school week.

Appendix D. Optional Age Nutrient Standards for Nutrient Standard and Assisted Nutrient Standard Menu Planning

Breakfast

Minimum Calorie and Nutrient Levels for School Breakfast (School Week Averages for Age Groups)				
Nutrients and Energy Allowances	Ages 3-6	Ages 7-10	Ages 11-13	Ages 14 and older
Energy Allowances (calories)	419	500	588	625
Total Fat (as a percentage of actual total food energy)	¹	¹	¹	¹
Saturated Fat (as a percentage of actual total food energy)	²	²	²	²
RDA for Protein (g)	5.50	7.00	11.25	12.50
RDA for Calcium (mg)	200	200	300	300
RDA for Iron (mg)	2.5	2.5	3.4	3.4
RDA for Vitamin A (RE)	119	175	225	225
RDA for Vitamin C (mg)	11.00	11.25	12.50	14.40

¹Total fat not to exceed 30 percent over a school week

²Saturated fat to be less than 10 percent over a school week

Lunch

Minimum Calorie and Nutrient Levels for School Lunch (School Week Averages for Age Groups)				
Nutrients and Energy Allowances	Ages 3-6	Ages 7-10	Ages 11-13	Ages 14 and older
Energy Allowances (calories)	558	667	783	846

Total Fat (as a percentage of total food energy)	¹	¹	¹	¹
Saturated Fat (as a percentage of total food energy)	²	²	²	²
RDA for Protein (g)	7.3	9.3	15.0	16.7
RDA for Calcium (mg)	267	267	400	400
RDA for Iron (mg)	3.3	3.3	4.5	4.5
RDA for Vitamin A (RE)	158	233	300	300
RDA for Vitamin C (mg)	14.6	15.0	16.7	19.2

¹Total fat not to exceed 30 percent over a school week

²Saturated fat to be less than 10 percent over a school week

Appendix E.XYZ Company

Cooked Pork Sausage Patties

Nutritional Analysis		
Serving Size	1.25 oz. (35 grams)	
Calories	70	
Calories from Fat	45	
		% Daily Value*
Total Fat g	5	8%
Saturated Fat g	2.5	13%
Cholesterol mg	20	7%
Sodium mg	220	9%
Total Carbohydrate g	1	0%
Dietary Fiber g	0	0%
Sugars g	0	0%
Protein g	6	12%
Vitamin A	---	0%
Vitamin C	---	0%
Calcium	---	0%
Iron	5	2%

*Percent Daily Values are based on a 2000 calorie diet.

Appendix F

Nutrition Facts	
Serving Size – 2 pieces	31g
Servings Per Container About 15	
Amount Per Serving	
Calories	110
Calories from Fat	20
% Daily Values	
Total Fat 2.5g	4%
Saturated Fat 1g	4%
Polyunsaturated Fat 0g	
Monounsaturated Fat 0g	
Cholesterol 0mg	0%
Sodium 20mg	1%
Protein 1g	2%
Total Carbohydrate 20g	7%
Dietary Fiber 1g	6%
Sugars 13g	
Vitamin A 0%	Vitamin C 0%
Calcium 0%	Iron 0%

CN

This 3.92 oz. fully cooked breaded turkey patty fritter provides 2 oz. equivalent meat/meat alternate and 1-1/4 servings of bread alternate for child nutrition meal pattern requirements. (Use of this Logo and statement has been authorized by the Food and Nutrition Service, USDA 05-96.)

CN

CN

Appendix H. Guidance for Reviewing Product Formulation Statement

A. Reviewing product formulation statement for prepared products containing only meat:

Raw meat per serving x FBG yield info = ounces equivalent meat per serving.

Example:

A beef burrito that contains 2.88 ounces raw ground beef
(no more than 30% fat):
2.88 x .70 (FBG yield) = 2.016 ounces equivalent meat per serving.

B. For product formulation statement for prepared products containing Alternate Protein Products (formally Vegetable Protein Products) in addition to meat:

1. The contribution alternate protein products (APP) make toward the meat/meat alternate requirement specified in Parts 210, 225, or 226 shall be determined on the basis of the preparation yield of the meat, poultry or seafood with which it is combined. When computing the preparation yield of a product containing meat, poultry or seafood APP, the SFA shall evaluate the APP as having the same yield ounce for ounce with the understanding that the APP must contain at least 18 percent protein by weight when fully hydrated or formulated. ("When hydrated or formulated" refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances which have been added.) The weight of the APP plus the yield of the meat, poultry, or seafood based on the Food Buying Guide equals the credit of the product towards meeting the meat/meat

alternate. The crediting of the combination of the APP and the yield of the meat, poultry, or seafood cannot exceed the weight of the product. [7 CFR Part 210, Appendix A, APP(1)(e)]

C. Steps in reviewing product formulation statement for prepared products containing APP:

1. Determine whether an appropriate amount of liquid is specified for full hydration:

a. Percent protein in APP as purchased = total parts hydrated product.

18% protein
Example: *.50 (flour used) = 2.7
.18

*Note: Use the information supplied by the company on the percent protein in the APP as purchased.

b. Total parts hydrated product minus 1 (one) part APP will equal parts liquid allowed for full hydration.

Example: 2.7
-1.0 (for amount of APP)
1.7 parts liquid for full hydration

2. Find the total weight of liquid for full hydration:

a. Multiply the total weight of dry APP in the product times the parts of liquid allowed for full hydration.

Example: .0816 ounces x 1.7 = .1387 ounces of liquid allowed for full hydration

Appendix I. Certified Product Formulation Statement for Meat/Meat Alternate (M/Ma) Products

(Place information on company letterhead with signature of a legally authorized representative of the company.)

Product Name: _____ Code No.: _____
 Manufacturer: _____
 Case/Pack/Count/Portion Size: _____
 List Variety(ies) and Cuts of Meat Used in Product: _____
 Total Weight (per portion) of Uncooked Product: _____
 Weight of Raw Meat per portion (List each variety separately.): _____
 Percent of Fat in Raw Meat (List fat in each variety separately.): _____
 Weight/measure (as approximate) of Meat Alternate(s) (Specify MA used.): _____

Source (e.g., soy, peanut), Type (e.g., isolate, concentrate), and percent of protein in APP as purchased: _____

If MA is an APP, specify the source (e.g., soy, whey), typ (e.g., flour, isolate, concentrate), and percent in APP as purchased: _____

Weight of Dry APP in One Portion of Product: _____

Weight of Water (Liquid) to Fully Hydrate Dry APP in One Portion of Product: _____

Percent protein contained in the fully hydrated or formulated APP: _____

Total Weight Per Portion of Product As Purchased: _____

I certify that the above information is true and correct and that a _____ ounce serving of the above product (ready for serving) contains _____ ounces of cooked lean meat/meat alternate when prepared according to directions.

I further certify that any APP used in this product conforms to Food and Nutrition Service regulations (7CFR Parts 210, 220, 225 or 226, Appendix A).

SIGNATURE

TITLE

PRINTED NAME

DATE

This information is needed if a creditable Alternate Protein Product (APP) is used in the product and counted toward meeting the meat/meat alternate requirement.

Appendix J

Traditional Food-Based Menu Planning Approach-Meal Pattern For Lunches					
Food Components And Food Items	Minimum Quantities				Recommended Quantities
	Group I Ages 1-2 Preschool	Group II Ages 3-4 Preschool	Group III Ages 5-8 Grades K-3	Group IV Ages 9 And Older Grades 4-12	Group V Ages 12 And Older Grades 7-12
Milk (as a beverage)	6 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces	8 fluid ounces
Meat or Meat Alternate (quantity of the edible portion as served): Lean meat, poultry, or fish Alternate Protein Products ¹ Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Yogurt, plain or flavored, unsweetened or sweetened The following may be used to meet no more than 50 % of the requirement and must be used in combination with any of the above: Peanuts, soynuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry, or fish)	1 ounce 1 ounce 1 ounce ½ ¼ cup 2 tablespoons 4 ounces or ½ cup ½ ounce = 50%	1 ½ ounces 1 ½ ounces 1 ½ ounces ¾ ¾ cup 3 tablespoons 6 ounces or ¾ cup ¾ ounce = 50%	1 ½ ounces 1 ½ ounces 1 ½ ounces ¾ ¾ cup 3 tablespoons 6 ounces or ¾ cup ¾ ounce = 50%	2 ounces 2 ounces 2 ounces 1 ½ cup 4 tablespoons 8 ounces or 1 cup 1 ounce = 50%	3 ounces 3 ounces 3 ounces 1 ½ ¾ cup 6 tablespoons 12 ounces or 1 ½ cups 1 ½ ounce = 50%
Vegetable or Fruit: 2 or more servings of vegetables, fruits or both	½ cup	½ cup	½ cup	¾ cup	¾ cup
Grains/Breads: (servings per week): Must be enriched or whole grain. A serving is a slice of bread or an equivalent serving of biscuits, rolls, etc., or ½ cup of cooked rice, macaroni, noodles, other pasta products or cereal grains	5 servings per week ² – minimum of ½ serving per day	8 servings per week ² – minimum of 1 serving per day	8 servings per week ² – minimum of 1 serving per day	8 servings per week ² – minimum of 1 serving per day	10 servings per week ² – minimum of 1 serving per day

¹ Must meet the requirements in appendix A of CFR 210.

² For the purposes of this table, a week equals five days.

Appendix K

Traditional Food-Based Menu Planning Approach-Meal Pattern For Breakfasts			
Food Components and Food Items	Ages 1-2	Ages 3, 4, and 5	Grades K-12
Milk (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces
JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	¼ cup	½ cup	½ cup
Select One Serving From Each Of The Following Components, Two From One Component, Or An Equivalent Combination: GRAINS/BREADS: Whole-grain or enriched bread Whole-grain or enriched biscuit, roll, muffin, etc. Whole-grain, enriched or fortified cereal MEAT OR MEAT ALTERNATES: Meat/poultry or fish Alternate protein products ¹ Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Nuts and/or seeds (as listed in program guidance) ² Yogurt, plain or flavored, unsweetened or sweetened	½ slice ½ serving ¼ cup or 1/3 ounce ½ ounce ½ ounce ½ ounce ½ 2 tablespoons 1 tablespoon ½ ounce 2 ounces or ¼ cup	½ slice ½ serving 1/3 cup or ½ ounce ½ ounce ½ ounce ½ ounce ½ 2 tablespoons 1 tablespoon ½ ounce 2 ounces or ¼ cup	1 slice 1 serving ¾ cup or 1 ounce 1 ounce 1 ounce 1 ounce ½ 4 tablespoons 2 tablespoons 1 ounce 4 ounces or ½ cup

¹ Must meet the requirements in appendix A of CFR 220.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast.

Appendix L.Grains/Breads for Food Based Menu Planning in the Child Nutrition Programs¹

Grains/Breads¹	Wt./1 Serving	Wt./ ¼ Serving	Wt./ ½ Serving	Wt./ ¼ Serving
Group A	20 Gm Or 0.7 Oz	15 Gm Or 0.5 Oz	10 Gm Or 0.4 Oz	5 Gm Or 0.2 Oz
Bread type coating Bread sticks (hard) Chow mein noodles Crackers (saltines and snack) Croutons Pretzels (hard) Stuffing (dry)[Note: Weights apply to breads in stuffing.]				
GROUP B	25 gm or 0.9 oz	19 gm or 0.7 oz	13 gm or 0.5 oz	6 gm or 0.2 oz
Batter type coating Bagels Biscuits Breads (white, wheat, whole wheat, French, Italian) Buns (hamburger, hotdog) Crackers (graham—all shapes, animal) Egg roll skins English muffins Pita bread (white, wheat, whole wheat) Pizza crust Pretzels (soft) Rolls (white, wheat, whole wheat, potato) Taco shells Tortillas (wheat, corn) Tortilla chips (wheat, corn)				
GROUP C	31 gm or 1.1 oz	23 gm or 0.8 oz	16 gm or 0.6 oz	8 gm or 0.3 oz
Cookies ² (plain) Corn muffins Cornbread Croissants Pancakes Pie crust (dessert pies², fruit turnovers³, and meat/meat alternate pies) Waffles				
GROUP D	50 gm or 1.8 oz	38 gm or 1.3 oz	25 gm or 0.9 oz	13 gm or 0.5 oz
Doughnuts ³ (cake and yeast raised, unfrosted) Granola bars ³ (plain) Muffins (all, except corn) Sweet rolls ³ (unfrosted) Toaster pastry ³ (unfrosted)				

Grains/Breads	Wt./ 1 Serving	Wt./ ¼ Serving	Wt./ ½ Serving	Wt./ ¼ Serving
Group E	63 Gm Or 2.2 Oz	47 Gm Or 1.7 Oz	31 Gm Or 1.1 Oz	16 Gm Or 0.6 Oz
Cookies ² (with nuts, raisins, chocolate pieces, and/or fruit purees) Doughnuts ³ (cake and yeast raised, frosted or glazed) French toast Grain fruit bars ³ Granola bars ³ (with nuts, raisins, chocolate pieces, and/or fruit) Sweet rolls ³ (frosted) Toaster pastry ³ (frosted)				
GROUP F	75 gm or 2.7 oz	56 gm or 2.0 oz	38 gm or 1.3 oz	19 gm or 0.7 oz
Cake ² (plain, unfrosted) Coffee cake ³				
GROUP G	115 gm or 4 oz	86 gm or 3 oz	58 gm or 2 oz	29 gm or 1 oz
Brownies ² (plain) Cake ² (all varieties, frosted)				
GROUP H	½ cup cooked or 25 gm (0.9 oz) dry			

Barley Bulgur or cracked wheat Breakfast cereals * ⁴ (cooked) Macaroni (all shapes) Noodles, (all varieties) Pasta (all shapes) Ravioli (noodle only) Rice (enriched white or brown)				
GROUP I	3/4 cup or 1 oz, whichever is less			
Cereal (cold, dry) ⁴				
* Serving size for lunch only.				

¹ Some of the following foods or their accompaniments may contain more sugar, salt, and/or fat than others. The extent of each should be a consideration when deciding how often to serve them.

² These items are allowed only for desserts under the enhanced food-based menu planning alternative specified in §210.10 and supplements (snacks) served under the NSLP, SFSP, and CACFP.

³ These items are allowed for desserts under the enhanced food-based menu planning alternative specified in §210.10 and supplements (snacks) served under the NSLP, SFSP, and for breakfasts served under the SBP, SFSP and CACFP.

⁴ Refer to program regulations for the appropriate serving size for supplements served to children ages 1 through 5 in the NSLP, for breakfasts served under the SBP, and for meals served to children ages 1 through 5 and adult participants in the CACFP. Breakfast cereals are traditionally served as a breakfast menu item but may be served in meals other than breakfast.

Appendix M

Enhanced Food-Based Menu Planning Approach-Meal Pattern For Lunches					
Food Components And Food Items	Minimum Requirements				Option For
	Ages 1-2	Preschool	Grades K-6	Grades 7-12	Grades K-3
Milk (as a beverage)	6 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces	8 fluid ounces
Meat or Meat Alternate (quantity of the edible portion as served): Lean meat, poultry, or fish Alternate Protein Products ¹ Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Yogurt, plain or flavored, unsweetened or sweetened The following may be used to meet no more than 50 % of the requirement and must be used in combination with any of the above: Peanuts, soynuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry, or fish)	1 ounce 1 ounce 1 ounce ½ ¼ cup 2 tablespoons 4 ounces or ½ cup ½ ounce = 50%	1 ½ ounces 1 ½ ounces 1 ½ ounces ¾ ¾ cup 3 tablespoons 6 ounces or ¾ cup ¾ ounce = 50%	2 ounces 2 ounces 2 ounces 1 ½ cup 4 tablespoons 8 ounces or 1 cup 1 ounce = 50%	2 ounces 2 ounces 2 ounces 1 ½ cup 4 tablespoons 8 ounces or 1 cup 1 ounce = 50%	1 ½ ounces 1 ½ ounces 1 ½ ounces ¾ ¾ cup 3 tablespoons 6 ounces or ¾ cup ¾ ounce = 50%
Vegetable or Fruit: 2 or more servings of vegetables, fruits or both	½ cup	½ cup	¾ cup plus an extra ½ cup over a week ²	1 cup	¾ cup
Grains/Breads: (servings per week): Must be enriched or whole grain. A serving is a slice of bread or an equivalent serving of biscuits, rolls, etc., or ½ cup of cooked rice, macaroni, noodles, other pasta products or cereal grains	5 servings per week ² – minimum of ½ serving per day	8 servings per week ² – minimum of 1 serving per day	12 servings per week ² – minimum of 1 serving per day ³	15 servings per week ² – minimum of 1 serving per day ³	10 servings per week ² – minimum of 1 serving per day ³

¹ Must meet the requirements in appendix A of CFR 210.

² For the purposes of this table, a week equals five days.

³ Up to one grains/breads serving per day may be a dessert.

Appendix N

Enhanced Food-Based Menu Planning Approach-Meal Pattern For Breakfasts				
Food Components And Food Items	Required For			Option For
	Ages 1-2	Preschool	Grades K-12	Grades 7-12
Milk (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces
Juice/Fruit/Vegetable: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	¼ cup	½ cup	½ cup	½ cup
Select one serving from each of the following components, two from one component or an equivalent combination: GRAINS/BREADS: Whole-grain or enriched bread Whole-grain or enriched biscuit, roll, muffin, etc. Whole-grain, enriched or fortified cereal MEAT OR MEAT ALTERNATES: Meat/poultry or fish Alternate protein products ¹ Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Nuts and/or seeds (as listed in program guidance) ² Yogurt, plain or flavored, unsweetened or sweetened	½ slice ½ serving ¼ cup or 1/3 ounce ½ ounce ½ ounce ½ ounce ½ 2 tablespoons 1 tablespoon ½ ounce 2 ounces or ¼ cup	½ slice ½ serving 1/3 cup or ½ ounce ½ ounce ½ ounce ½ ounce ½ 2 tablespoons 1 tablespoon ½ ounce 2 ounces or ¼ cup	1 slice 1 serving ¼ cup or 1 ounce 1 ounce 1 ounce 1 ounce ½ 4 tablespoons 2 tablespoons 1 ounce 4 ounces or ½ cup	1 slice 1 serving ¼ cup or 1 ounce plus an additional serving of one of the Grains/Breads above. 1 ounce 1 ounce ½ 4 tablespoons 2 tablespoons 1 ounce 4 ounces or ½ cup

¹ Must meet the requirements in appendix A of CFR 220.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast

Appendix O. Foods Of Minimal Nutritional Value

The following list includes foods of minimal nutritional value as given in the 7 Code of Federal Regulations (CFR), Part 210, Appendix B. Procedures for petitioning USDA for amendments are outlined in 7 CFR 210, Appendix B.

Foods of Minimal Nutritional Value	Definition	Noted Exceptions
Soda Water (Carbonated Beverages)	A class of beverages made by absorbing carbon dioxide in potable water	No product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals and protein.
Water Ices	As defined by 21 CFR 135.160 Food and Drug Administration Regulations	Water ices that contain fruit or fruit juices
Chewing Gum	Flavored products from natural or synthetic gums and other ingredients that form an insoluble mass for chewing	
Certain Candies	Processed foods made predominately from sweeteners or artificial sweeteners with a variety of minor ingredients which characterize the following types: hard candy, jellies and gums, marshmallow candies, fondant, licorice, spun candy, and candy coated popcorn	

Appendix P. Infant Breakfast Pattern

	0 - 3 Months	4 - 7 Months	8 - 11 Months
Iron Fortified Formula ¹ Or Breast Milk ^{2,3}	4 - 6 Fluid Ounces	4 - 8 Fluid Ounces	6 - 8 Fluid Ounces And
Iron Fortified Dry Infant Cereal ¹		0 - 3 Tablespoons (Optional)	2 - 4 Tablespoons And
Fruit And/Or Vegetable			1 - 4 Tablespoons

Infant Lunch Pattern

	0 - 3 Months	4 - 7 Months	8 - 11 Months
Iron Fortified Formula ¹ Or Breast Milk ^{2, 3}	4 - 6 Fluid Ounces	4 - 8 Fluid Ounces	6 - 8 Fluid Ounces And
Iron Fortified Dry Infant Cereal ¹		0 - 3 Tablespoons (Optional)	2 - 4 Tablespoons And/Or 1 - 4 Tablespoons Meat/Alternate* And
Fruit And/Or Vegetable		0 - 3 Tablespoons (Optional)	1 - 4 Tablespoons

¹Infant formula and dry infant cereal shall be iron-fortified.

²It is recommended that breast milk be served in place of formula for infants from birth through 11 months.

³For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

*One to four tablespoons meat, fish, poultry, egg yolk, cooked dry beans, or peas or 1/2 - 2 ounces cheese or 1 - 4 tablespoons cottage cheese, cheese food, or cheese spread

Appendix Q. Louisiana Department of Education School Food Service Section Prototype—Diet Prescription for Meals at School

Student's Name _____ Age _____
 School _____ Grade/Classroom _____
 Parent's Name _____
 Address _____ Telephone _____
 Street or P. O. Box _____ City _____ State _____
 Does the student have a disability that requires a special diet? Yes _____ No _____
 If Yes, describe the major life activities affected by the disability.

(See back of form for further information.)

If the student is not disabled, list the medical condition that requires special nutritional or feeding needs.

Diet Prescription (Check all that apply.):

- Diabetic
- Food Allergy
- Hypoglycemic
- PKU
- Other _____
- Increased Calorie _____ #kcal
- Reduced Calorie _____ #kcal
- Texture Modification
 - Chopped _____ Ground _____
 - Pureed _____ Liquified _____
- Tube Feeding
 - Liquified Meal _____ Formula _____

Foods Omitted and Substitutions

(Please check food groups to be omitted. Identify specific foods to omit and list foods to be substituted. If necessary, attach additional information or instructions regarding the diet or feeding.)

- Food Groups to Omit
- Bread and Cereal Products
 - Meat and Meat Alternatives
 - Milk and Milk Products
- Specific Foods to Omit _____ Specific Foods to Substitute _____

I certify that the above named student needs special school meals prepared as described above because of the student's disability or chronic medical condition.

Office Address _____ Office Telephone # () _____

¹Licensed Physician/Recognized Medical Authority Signature _____ Date _____
¹Signature of Licensed Physician required if the student is disabled.

APPENDIX Q (Cont'd.) Definition of Disability

§15b.3 Definitions

As used in this part, the term or phrase:

(l) Student with disabilities means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(j) Physical or mental impairment means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

(k) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Appendix R. Prototype Food Service Contract

This agreement is entered into between the _____, hereinafter referred to as the Contractor, and the _____, hereinafter referred to as the Contracted Agency, for the purpose of providing food service in the National School Lunch and Breakfast Program.

This contract shall be effective _____ through _____ unless otherwise terminated under the conditions of this contract. The Contractor agrees to provide meals Monday through Friday of each week except during normal holidays of the Contractor.

The Contractor shall provide the following meals each day: _____ . All meals provided by the Contractor shall meet USDA specification of menu planning system and specified age/grade meal pattern requirements listed below. The Contracted Agency shall not be responsible for agreed remittance to the contractor for meals not meeting meal requirements.

Menu Planning System _____
Age/Grade Groupings _____
Age/Grade Groupings _____

Furthermore, The Contractor agrees to maintain full and accurate records that the Contracted Agency will need to meet its responsibility under the National School Lunch and Breakfast Program. Included in these records are the following:

1. Menu records, including the amount of food prepared
2. Number of meals, including the daily number of meals delivered.

All records pertaining to the National School Lunch and Breakfast Program shall be maintained by both parties for a period of three years after the end of the fiscal year to which they pertain or longer if an audit has not been resolved. Upon request, all accounts and records pertaining to the programs shall be made available to all pertinent State and Federal offices for audit and administrative review at a reasonable time and place.

The minimum charge shall be the average cost of the meal in the school system, plus the per meal value of USDA donated commodities. Meals shall be provided at the following rates:

Breakfast _____ Lunch _____ Snack _____

The rates are subject to renegotiations at the time or times at which USDA reimbursement and said benefits are altered. The Contractor shall provide a bill to the Contracted Agency by the _____ day following the billing period. The billing period shall coincide with the calendar month. In the event of termination of this agreement, a bill shall be provided within _____ days of the effective date of termination. On or before the _____ day of the month following the billing period, the Contracted Agency shall pay the contractor the amount due in accordance with this agreement.

Both parties reserve the right to cancel this agreement or any part thereof for convenience upon 30 days written notice to the other party. Both parties reserve the right to terminate this agreement for cause upon breach of any or all parts of this contract by either party. Termination shall be effective upon _____ days written notice.

Entered into on the ____ day of, 20__.

Signature of Contractor _____ Date _____

Signature of Contracted Agency _____ Date _____

Appendix S. Prototype Agreement for Donation of Leftover Food Items

THIS AGREEMENT is made and entered into this _____ of _____, 20, between _____ hereinafter referred to as the "Contractor," and _____ hereinafter referred to as the "District."

WHEREAS the Contractor is a nonprofit agency qualified to distribute food to needy persons in the community,

The parties hereby agree as follows:

TERM

This Agreement is effective upon execution and shall remain in effect until terminated by the parties hereto. Either party may terminate this Agreement by providing the other party five (5) days advance written notification, delivered to its last know address.

DUTIES OF THE DISTRICT

The District shall make available to the Contractor at no cost and on a nonexclusive basis leftover food items from the District's Food Services operation, for which the District has determined it has no further use.

DUTIES OF THE CONTRACTOR

The Contractor shall pick up the food items at times and places mutually agreeable to the parties as specified in Paragraph 9 below, transport them as necessary, and provide them at no cost to needy persons, all in a manner that complies with applicable laws and regulations.

NONDISCRIMINATION

Neither party shall employ discriminatory practices in its performance hereunder on the basis of race, color, religion, national origin, ancestry, sex, age, or physical or mental handicap.

CONTRACTOR NOT AN OFFICER, EMPLOYEE, OR AGENT OF THE DISTRICT

While engaged in performance of this contract, the Contractor is an independent contractor and is not an officer, employee, or agent of the District.

LIABILITY

The District shall not be liable to the Contractor for personal injury or property damage sustained by the Contractor in the performance of this contract, whether caused by the District, its officers, employees, or by third persons.

HOLD HARMLESS AND INDEMNIFICATION

The Contractor agrees to release, discharge, indemnify, defend, and hold harmless the District, its employees, and agents for all illness, injury, or damage to persons or property which may arise out of the activities covered under this Agreement, including the transportation, distribution, use, or consumption of food items, irrespective of any negligence on the part of the District. Furthermore, the Contractor agrees to defend and fully indemnify the District from any and all liability, loss, or damage the District or its agents or employees may suffer as a result of claims, demands, costs, penalties, litigation, or judgments against it arising from any and all illness, injury, or damage to any person, persons, or property caused by or resulting from the activities covered under this Agreement, including the transportation, distribution, use, or consumption of food items.

INSURANCE

The Contractor shall carry sufficient general liability insurance to protect itself, its employees, and agents against all such claims (referenced in Paragraph 7, above) arising under this Agreement, and to indemnify and defend the District.

The Contractor shall provide the District with certificate(s) of insurance acceptable to the District's Contracts Supervisor, specifying that the District is to be given written notice thirty (30) days in advance of any modification to or termination of coverage.

The Contractor's insurance carrier is _____ .
Policy No. _____ .

DELIVERY

Contractor shall take delivery at the following location(s):

-Contractor- _____ -District- _____

BY _____ BY _____

Title _____ Contracts Supervisor

APPENDIX T

SAMPLE PRODUCT FORMULATION STATEMENT FOR PREPARED GRAINS/BREADS

(Place information on company letterhead with signature of a legally authorized representative of the company.)

Product name: _____ Code No.: _____

Case _____ weight _____ and _____ pack/count: _____

Volume _____ and weight _____ of one serving of product: _____

Weight of total product per batch:
Before Baking: _____ After Baking: _____

List the enriched and/or whole grain meal(s), flour(s), bran and/or germ in the product: _____

Total weight of enriched an/or whole grain meal(s), flour(s), bran and/or germ per batch: _____

Number _____ of portions/servings _____ per batch: _____

Weight (grams) of enriched and/or whole grain meal(s) and /or flour(s), bran and /or germ in one serving of the product: _____

I certify that the above information is true and correct and that one _____ serving (specify serving volume/weight) of the above product (ready to eat) contains _____ servings of Grains/Breads* for the Child Nutrition Programs.

SIGNATURE TITLE

PRINTED NAME DATE

(*Child Nutrition Programs require 14.75 grams of whole grain or enriched flour or meal, bran or germ, or an equivalent amount of cereal as provided in FNS Instruction 783-1, Rev. 2, to equal 1 serving Grains/Breads. Grains/Breads may be credited in 1/4 serving increments.)

Chapter 11. Afteschool Care Program §1101. General

A. Sections 107 and 108 of Public Law 105-336, the Child Reauthorization Act of 1998, enhance nutrition benefits for all children, with a special emphasis on older children, by authorizing reimbursement for snacks served to

children through age 18, (and to individuals, regardless of age, who are determined by the State Agency to be mentally or physically disabled), who participate in programs organized to provide afterschool care. The intent of these provisions is to assist schools and public and private nonprofit organizations to operate organized programs of care, which include educational or enrichment activities known to help reduce or prevent children's involvement in juvenile crime or other high-risk behavior.

B. The Afterschool Care Program must be administered by a school food authority (SFA) participating in the National School Lunch Program (NSLP) or by a public or private nonprofit organization participating through the Child and Adult Care Food Program (CACFP). Eligible organizations must enter into an agreement with the State Agency, thereby, assuming full responsibility for meeting all program requirements mandated by Federal and State laws

C. The SFA may make arrangements with another organization to perform the day-to-day operations of the program, but administrative and financial management shall be the sole responsibility of the SFA: for example, the PTA could operate the program under an arrangement with the SFA, but administrative and fiscal responsibilities rest with the SFA.

D. Schools wishing to participate under this provision must provide sufficient information to enable the State Agency to determine whether or not the program is eligible and, if so, whether or not it qualifies for free reimbursement for all meals based on area eligibility. Upon approval, the State Agency must amend its agreement with the SFA to provide for the requirements of an afterschool snack service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1103. Eligible Programs

A. Afterschool Care Programs must meet the following criteria.

1. The program must be administered by a SFA participating in the NSLP. If the school is not part of an SFA participating in the NSLP, the school may be eligible to participate through the CACFP.

2. The program must provide care in afterschool settings.

3. The program must include education or enrichment activities in organized, structured and supervised environments.

4. The program must be open to all and not limit membership for reasons other than space or security consideration, or, where applicable, licensing requirements. Extracurricular activities—such as the school choir, debate team, drama society, etc.,—can qualify to participate under this provision only if their basic purpose is to provide afterschool care as defined above. No organized athletic programs engaged in interscholastic sports can be approved as afterschool care programs under this provision.

B. An exception to the "open to all" criterion may apply to afterschool care programs that are designed to accommodate special needs or that have other limiting factors. They may include, but are not limited to, programs targeted to children who have learning disabilities or programs for children who are academically gifted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1105. Eligible Sites

A. Traditional school settings and nontraditional school settings, such as a church or community center, may be used for the Afterschool Care Program, provided the program is operated by an SFA which is participating in the NSLP. If the school is not part of an SFA participating in the NSLP, the school may be eligible to participate through CACFP.

B. Federal law does not require eligible afterschool programs to be licensed in order to participate in the Afterschool Care Program unless there is a State or local requirement for licensing. If there is no local or State requirement for licensing, then the site must meet State or local health and safety standards.

C. Residential child care institutions (RCCIs) that participate in the NSLP may be eligible to participate, provided the RCCI operates an afterschool care program with enrichment or educational activities as described in Eligible Programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1107. Reimbursement

A. Schools may claim reimbursement for one snack, per child, per day. Children are eligible to participate through age 18. In cases in which a student's nineteenth birthday occurs during the school year, reimbursement may be claimed for snacks served to that student through the remainder of the school year. Reimbursement may also be claimed for individuals, regardless of age, who are determined by the State Agency to be mentally or physically disabled.

B. Schools are not eligible to receive reimbursement under this provision for snacks served on weekends or holidays, including vacation periods. RCCIs may claim snacks served on weekends and holidays only if conducted after an educational activity which is an integral part of the curriculum or an actual extension of the local education system.

1. Area Eligible Sites

a. Sites located in areas served by a school in which at least 50 percent of the enrolled children are certified eligible for free or reduced price meals are eligible to receive snack reimbursement at the free rate for all children eligible for snacks, regardless of each individual child's eligibility status for free or reduced price lunches and breakfasts. Area eligibility for the site will follow the Summer Food Service Program's (SFSP) policies for area eligibility using school data. Schools determined to be area eligible for the SFSP would also be area eligible as afterschool care facilities.

b. School sites where at least 50 percent of the students enrolled are certified eligible for free or reduced price meals are considered area eligible.

2. Non-Area Eligible

a. Sites not in areas served by a school in which at least 50 percent of the enrolled

children are certified eligible for free or reduced price meals must claim reimbursement by category (free, reduced

price and paid). Eligibility for snacks served free or at a reduced price must be documented.

b. School sites where fewer than 50 percent of the students enrolled are certified eligible for free or reduced price meals are considered non-area eligible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1109. Times of Operation

A. The Afterschool Care Program may operate on only those days when school is in session. This schedule may include snacks served in afterschool care programs operated for children attending summer school; but does not include weekends, holidays, or school vacations. Under no circumstances may snacks be reimbursed in programs operated before or during the child's school day. A child's eligibility is based on when his/her individual scheduled school day ends, not on whether the school continues in session for other children.

B. RCCIs may claim weekend and holidays only if conducted after an education activity that is determined to be an integral part of the curriculum or an actual extension of the local education system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1111. Content of Meals

A. Snacks served must meet the meal pattern requirements set forth in 7 CFR Sections 210.10(h) and (j). Portions for children ages 13 through 18 shall be no less than the portions stipulated for children ages 6 through 12. It is recommended that schools offer larger portions for older children (ages 13-18) based on their greater food energy requirements. (See Appendix A entitled "Meal Pattern Requirements for Afterschool Care Programs.")

B. Participants must be given two of the four components specified in the snack meal pattern in order to claim a meal for reimbursement. Unlike NSLP and SBP, there is no Offer versus Serve option in the Afterschool Care Program.

C. The State requires that at least a five-day menu cycle for snacks be developed to meet the snack pattern requirements. USDA recommends that cookies, granola bars, and similar foods be served in a snack no more than twice a week. Juice may not be served as a component when milk is the only other component being offered. All grains/bread products must be made of whole grain or enriched flour or meal and must meet the weight requirements specified in Chapter 9: "Meal Planning and Service, Appendix L."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1113. Snack Pricing Procedures

A. The State Agency highly recommends that the SFA establish and implement a payment policy for the snack program. Undercollections for the sale of snacks will necessitate an audit exception; undercollections must be recovered from other sources and deposited in the school food service account.

1. Students

a. A student not qualifying for the free rate shall pay the snack price established by the SFA. The price charged for a reduced price snack shall be less than the price charged to full price students and shall be 15 cents or lower.

b. Different snack charges may be established for elementary and secondary grade levels; however, the charges for reduced priced snacks may not exceed 15 cents.

2. SFA Employees

a. The minimum charge shall be the Federal free snack reimbursement rate.

3. Adults/Visitors

a. The minimum charge shall be the Federal free snack reimbursement rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1115. Record Keeping

A. At a minimum, SFAs participating under this provision must maintain the following records for the time periods required in 7 CFR section 210.23(c).

1. an approved collection procedure;
2. a roster or sign-in sheet showing daily attendance;
3. accurate daily counts by category of snacks served;
4. if all snacks are claimed free, documentation that at least 50 percent of the students enrolled at the school site are certified eligible for free or reduced price or documentation that the site is located in an area served by a school in which

50 percent of the enrolled students are certified eligible for free or reduced price meals;

5. for all other eligible sites, documentation of free and reduced price eligibility for all children for whom free and reduced priced snacks are claimed;

6. documentation of compliance with snack pattern requirements recorded on the Food Production Record;

7. documentation of the educational or enrichment activity maintained on file in the SFS central office;

8. if qualifying for the program through attendance areas, attendance areas maintained on file in the SFS central office;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1117. Required Monitoring by the School Food Authority

A. The SFA must monitor the snack program at least twice during the school year with the first review occurring within the first four weeks of its operation. A sample monitoring form is provided in Appendix B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1119. Appendices

A. Meal Pattern Requirements for Afterschool Care Programs

B. After School Snack Program Review

Chapter 11. Afterschool Care Program
Appendix A. Meal Pattern Requirements for Afterschool Care Programs

Components (Serve Two Food Items Selected From Any Two Of These Four Components.)	Ages 1 And 2	Ages 3- 5	Ages 6 - 12
Milk Milk, fluid	½ cup	½ cup	1 cup
Vegetables and Fruits Vegetable(s) and/or fruit(s) or Full-strength fruit or vegetable juice or An equivalent quantity of any combination of the above (Juice may not be served when milk is the only other component.)	½ cup	½ cup	¾ cup
Bread and Bread Alternates Bread or Cornbread, biscuits, rolls, muffins, etc. or Cold dry cereal or Cooked cereal or Cooked pasta or noodle products or Cooked cereal grains or An equivalent quantity of any combination of the above bread and bread alternates	½ slice ½ serving ¼ cup or 1/3 oz ¼ cup ¼ cup ¼ cup	½ slice ½ serving 1/3 cup or ½ oz ¼ cup ¼ cup ¼ cup	1 slice 1 serving ¾ cup or 1 oz. ½ cup ½ cup ½ cup
Meat and Meat Alternates Lean meat or poultry or fish or Alternate protein products or Cheese or Eggs or Cooked dry beans or peas or Peanut butter or soynut butter or other nut or seed butters or Peanuts or soynuts or tree nuts or seeds or Yogurt, plain or sweetened and flavored or An equivalent quantity of any combination of the above meat and meat alternates	½ oz. ½ oz. ½ oz. ½ egg 1/8 cup 1 tbsp. ½ oz. 2 oz. or ¼ cup	½ oz. ½ oz. ½ oz. ½ egg 1/8 cup 1 tbsp. ½ oz. 2 oz. or 1/4 cup	1 oz. 1 oz. 1 oz. ½ egg ¼ cup 2 tbsp. 1 oz. 4 oz. or 1/2 cup

* Bread and bread alternates must be whole grain or enriched except cereal, which must be whole grain, enriched or fortified.

**Cold dry cereal is measured either by volume (cup) or weight (ounces), whichever is less.

CAUTION: Children under five years of age are at the highest risk of choking. USDA recommends that any nuts and/or seeds be served to them in a prepared food and be ground or finely chopped.

Appendix B. After School Snack Program Review

SFA: Date: SY: Site Code:
 School: Area Eligible: Non-area eligible:

SNACK MENU PORTION DAY OF REVIEW SIZE	PRICES	NUMBER OF SNACKS SERVED		
		YES	NO	N/A
	N/A _____ Full Price _____ Reduced Price _____	School Reviewer Count Count Free Reduced Paid Total		
1. Do the snacks served meet minimum requirements?				
2. Are production records maintained on snacks claimed for reimbursement?				
3. Is the snack priced as a unit?				
4. Is the charge for a reduced-price snack 15 cents or less?				
5. Is there a collection procedure for non/area-eligible students?				
6. Are there roster/sign-in sheets to document student participation on a daily basis?				
7. Are records maintained showing actual counts on a daily basis?				
8. Is reimbursement claimed for no more than one snack, per child, per day?				
9. Are snacks claimed according to the school's eligibility (i.e., Area Eligible -- all free, Non-Area Eligible - by category)?				
10. Does the After School Snack Program include educational/enrichment activities?				
11. Did the SFA conduct a review:				
a. during the first four weeks of operation?				
b. once more during the year?				

Additional Comments:

Signature of Site Manager

Signature of Program Specialist

Chapter 13. Personnel

§1301 Child Nutrition Program Director/Supervisor

A. A Child Nutrition Program (CNP) Director or Supervisor is that member of the administrative staff of the school system who, under the general direction of the superintendent of schools or school business administrator, works with others in the developing, administering, and supervising of the school food service programs within the school system. The significance of good nutritional habits and food in relation to health and total educational performance makes it imperative that CNPs are based upon professional concepts. Therefore, the full-time services of a full-time certified director or supervisor are required for all school systems. Single private schools/charter schools and residential child care institutions are exempt from this requirement.

B. It is recommended that systems with more than 15 school programs employ an assistant director and/or additional supervisors to ensure the efficiency and effectiveness of CNP programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1303. Certification Requirements for Child Nutrition Program Directors/ Supervisors

A. Requirements for certification for CNP Director and Supervisor are set forth in Bulletin 746: Louisiana Standards for State Certification of School Personnel.

B. The applicant must have a master's degree in Home Economics (Family and Consumer Science), Institutional

Management, Nutrition, Dietetics, Business Administration, Food Technology, or Public Health Nutrition from a regionally accredited institution of higher education.

C. There are two areas of specialty for certification as a CNP director/supervisor:

1. Food Service

a. A minimum of three years of successful experience in Home Economics (Family and Consumer Science), or quantity food service management

b. A minimum of 21 semester hours, of which six (6) semester hours must be in human nutrition and three (3) semester hours in quantity food preparation. The remaining 12 semester hours must be presented in course credit in at least four of the following subject matter areas: Quantity Food Purchasing, Organization and Management, Quantity Food Service Equipment and Layout, Accounting, Statistics, Microbiology, Food Science or Technology.

2. Nutrition

a. A minimum of three years of successful experience in teaching, nutrition education, public health nutrition, clinical or administrative dietetics, cooperative extension, or food service management

b. Graduate and undergraduate semester hours, in the following courses:

i. Nutrition: 18 semester hours (at least six (6) hours in human nutrition). The remaining 12 semester hours may include nutrition, physiology, biochemistry, microbiology or bacteriology

ii. Foods: nine (9) semester hours

iii. Statistics, Research Methodology or Evaluative Techniques: Three (3) semester hours

iv. Other: 12 semester hours (minimum) in course credit in at least two of the following subject matter areas: Quantity Food Preparation or Quantity Cookery, Child or Adolescent Psychology Communication and Speech, Educational Materials and/or Methods, Personnel or Institutional Management

D. Newly employed CNP directors and supervisors are required to audit Phase III of the prescribed training course for School Food Service Manager Certification during the first year of employment. (Refer to "Description of LA School Food Service Training Program" in this Chapter.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1305 Provisional Child Nutrition Program Director/Supervisor

A. A special provisional certificate – which went into effect January 1, 1977 - may be issued to an individual employed as acting CNP director or supervisor. This certificate will be valid for one (1) year and renewable each year thereafter upon presentation of six (6) semester hours of applicable credit toward completion of all requirements for permanent certification as a CNP director/supervisor.

B. Special provisional certificates shall be issued only to persons with a baccalaureate or master's degree in Family and Consumer Science (Home Economics), Institutional Management, Nutrition, Dietetics, Business Administration, Food Technology, Public Health Nutrition, or other health related fields from a regionally accredited institution of higher education. This certificate does not authorize the holder to perform any services in the school system of Louisiana other than to act as a CNP director/supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1307. Duties and Responsibilities of Directors/Supervisors

A. The responsibilities of the director/ supervisor include the following duties:

1. implement goals, objectives and governing regulations of the CNP;
2. develop, initiate, and interpret a nutrition education program and coordinate nutrition and educational opportunities for school food service employees, students, teaching staff, parents, and community;
3. utilize the school food service program as an application of sound nutrition and as a means for improving the health and nutrition of the students;
4. establish and implement uniform personnel policies for school food service employees, basic job descriptions, standards for performance, evaluation tools, salary schedule, and employee benefits;
5. assist in developing or administering accurate accounting procedures and records for adequate control and management of income, labor, food, supplies, and other costs;
6. plan in-service training programs, personnel conferences and regular staff meetings;
7. establish high standards for food preparation and service ;

8. work with school administrators to plan meal schedules that meet the requirements and facilities of each school;

9. direct and/or supervise the planning of menus to comply with meal requirements and student acceptance;

10. make available standardized recipes and require portion control to be used in preparation and serving of food;

11. track current food service trends to improve and upgrade CNP;

12. cooperate in planning food service facilities including layouts;

13. assist in establishing and maintaining records necessary for adequate control and maintenance of equipment and supplies;

14. develop a plan for the appropriate care and maintenance of equipment and supplies as well as the proper cleaning of the food service area;

15. train personnel in proper use and care of equipment and supplies;

16. be knowledgeable of all local and State health laws and regulations;

17. enforce State and local laws relative to labor, sanitation, safety and fire prevention;

18. interpret goals and objectives of the CNPs through committee work, speeches, newspaper, radio, and television;

19. establish good rapport with students, school food service employees, teaching staff, school administrators, civic groups, parents, and general public;

20. develop or assist in the development of printed materials and audio-visual aids including general material for public information as well as manuals and instructional tools for school food service personnel;

21. use specifications for purchase of food, supplies and equipment;

22. purchase food products on the basis of standards, grades, quality and cost; and

23. purchase equipment on the basis of design, material, construction and cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1309. Classifications of School Food Service Personnel

A. Three general classifications of school food service personnel are as follows:

1. adults, who may be employed full-time or part-time;
2. students, who are part-time workers
3. adult volunteers.

B. In order to have a uniform classification throughout the state for all full-time and part-time school food service employees, according to the type of work performed, the following specific classifications shall be used.

1. Manager: The manager shall work under the direction of the director and with the site administrator. There shall be employed a paid, certified manager responsible for each school food service program site(s) listed on the appropriate State forms.

2. Food Production Manager/Assistant Manager: The Food Production/Assistant Manager shall work under the direction of the manager in sites/situations that the CNP director designates at his/her discretion.

3. Clerk: The Clerk shall work under the direction of the manager, shall assist in compiling and maintaining daily participation records, and shall serve as cashier.

4. Technician: The Technician shall work under the direction of the manager; performs food preparation tasks.

5. Student Workers: If necessary, student workers may be used during peak periods of operation on a controlled and trained basis with strict supervision of the manager. They shall be calculated as a part of the total labor hours and recorded on the labor budget if they receive any wages from school food service funds. All policies and regulations set forth in labor laws relating to women and children must be observed when employing students. Students receiving free or reduced price meals shall not be required to work, but may volunteer. Student workers shall not be allowed to collect monies/tickets because of the confidentiality of individual eligibility status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1311. Guidelines for Site-Based School Food Service

Personnel

A. Efficient operation on a limited school food service budget demands the assignment of each job to the most qualified personnel available. Guidelines for job classifications, qualifications, and responsibilities of site-based school food service personnel are outlined below.

B. Manager

1. Professional Growth

a. encourage active membership in National, State and local School Food Service Association;

b. stay abreast of new trends occurring in the SFS through reading professional publications, attending workshops and conventions.

2. Duties

a. implement the philosophy, policies and regulations of the CNPs;

b. select, requisition, and maintain inventory of USDA commodities and purchased foods and supplies;

c. direct the adjustment of standardized recipes to determine amounts of food to be prepared;

d. direct and train personnel including student help and volunteer workers;

e. prepare work schedules, written instructions, and procedures for food preparation, cleaning and operation of equipment;

f. plan and/or assist in planning menus and developing standardized recipes;

g. supervise food preparation and service;

h. maintain equipment and facilities;

i. maintain adequate records and prepare reports on all phases of school food service programs;

j. maintain high standards of health, sanitation and safety;

k. cooperate with school officials and parents in working with nutrition programs in schools;

l. supervise receiving and storage of all food and supplies;

m. direct monthly in-service training meetings for employees.

3. Education

a. A minimum of a high school diploma or General Equivalency Diploma (GED) certificate

b. Successful completion of the State's Manager Certification Requirements

4. Experience

a. a minimum of one year of successful school food service

5. Desirable Characteristics

a. able to plan, organize, direct, control and evaluate all phases of the SFS programs

b. cooperative, tactful, patient, impartial, punctual, motivated, knowledgeable, pleasant; the ability to communicate effectively and work well with others, accept constructive criticism

c. neat and well groomed appearance

d. knowledgeable of basic food preparation principles

e. skilled in quantity food preparation and service techniques, operation of various food service equipment

f. skilled in the use of basic arithmetic functions

C. Food Production/Assistant Manager

1. Professional growth

a. same as the manager

2. Duties

a. assume, in absence of manager, responsibilities and duties of the manager

b. other duties to be delegated by manager as the program dictates

3. Education

a. same as the manager

4. Experience

a. same as the manager

5. Desirable Characteristics

a. same as the manager

D. Clerk

1. Professional Growth

a. same as the manager

2. Duties

a. implement SFA meal collection procedures

b. prepare daily records of meals and income

c. prepare daily deposits and submit to designated authority

d. perform duties as required by manager and supervisor/director

3. Education

a. High School diploma or GED certificate

4. Desirable Characteristics

a. Able to work harmoniously with pupils, staff, parents, and the public

b. Legible writing

c. Neat and well groomed appearance

d. Skilled in handling routine and repetitious tasks and in the use of basic arithmetic functions

E. Food Service Technician

1. Professional growth

a. Same as the manager

2. Duties

a. Understand and use standardized recipes

b. Complete food preparation, service and cleaning duties

c. Use proper portion control techniques

d. Maintain equipment and facilities

- e. Maintain adequate records
- f. Maintain high standards of health, sanitation and safety
- g. Cooperate with school officials and parents
- h. Other duties to be delegated by manager as the program dictates
- 3. Education
 - a. High School diploma or GED certificate (preferred)
 - b. Sufficient ability to follow written instructions, interpret recipes and necessary printed matter
- 4. Experience
 - a. A minimum of at least one year in food service
- 5. Desirable Characteristics
 - a. Neat and well groomed appearance
 - b. Pleasant and cooperative attitude
 - c. The ability to be punctual, to follow directions, to work well with others, and to accept constructive criticism.
- F. Student Worker
 - 1. Duties
 - a. Scrape and stack dishes or trays
 - b. Replenish milk
 - c. Cleanup during meal period
 - d. Assist in storeroom duties
 - e. Serve food only if supervised
 - f. Perform other duties in training programs conducted under the supervision of a classroom teacher and in conjunction with the school food service manager
 - 2. Desirable Characteristics
 - a. Same as food service technician
- G. Adult Volunteer
 - 1. Duties
 - a. As designated by manager
 - 2. Desirable Characteristics
 - a. Same as food service technician

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1313. Other Qualifications for School Food Service Manager and Food Production Manager/Assistant Manager

A. Effective June 1, 1974, and thereafter, but not retroactive, school food service managers and food production managers/assistant managers must have certification numbers issued by Louisiana State Department of Education (LDOE), Division of Nutrition Assistance upon successful completion of the prescribed training courses. Each individual school food service unit shall have a certified manager assigned to oversee the food service operation. A certified manager may be assigned to more than one site. In cases in which a certified manager cannot be secured, a temporary certification may be issued for one year and renewed for two additional years. The necessary training for certification shall be successfully completed during this period. School food service funds shall not be used to pay salaries of uncertified managers and food production managers/assistant managers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1315. Description of Louisiana School Food Service Training Program

A. The school food service training program consists of three levels or phases. It is the responsibility of the SFA to provide training for employees for Phases I and II.

B. Phase I is designed for all food service technicians/employees. Phase I consists of 49 audiovisual units, which present basic information in the areas of safety, sanitation, equipment, food production, food handling, working with others, and nutrition. While Phase I is not mandated, anyone whom the SFA wants to become a manager must pass the Phase I Manager exam. The only prospective school food service managers exempt from this requirement are those persons with an associate's, bachelor's, or master's degree from a regionally accredited institution with 18 semester hours of Food and Nutrition and/or Institutional Management.

C. Phases II and III are designed for food service manager applicants. Phase II consists of 22 written self-instructional units covering the areas of personnel, public relations, safety, sanitation, nutrition, food production, and property management.

D. SFAs are required to verify that employees enrolled for the Phase II examination have successfully completed Phase II training. The school food service director/supervisor shall sign a statement to that effect on the Phase II exam enrollment form. Successful completion of the Phase II training program by an employee is defined as meeting all of the following requirements:

- 1. reading each of the 22 units and completing all review exercises;
- 2. successfully completing all learning activities at the end of each unit; and
- 3. completing the activity checklist for each unit which includes the preceptor's signature.

E. Phase III is a one-week training course taught by State Agency staff. The topics include, but are not limited to, policies and history of Child Nutrition Programs, forms, food distribution, and meal service dietary concerns, as well as first aid and cardiac pulmonary resuscitation (CPR). To be registered for Phase III, the applicant shall have passed the Phase II examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1317. Exam Administration Procedures

A. The Phase I and II examinations will be administered twice a year at various locations. The Phase III examination will be administered at the conclusion of Phase III training.

B. A person who fails the Phase III examination may retake the examination within six (6) months without repeating the Phase III training.

C. Upon successful completion of Phase III, the applicant will be assigned a certification number and issued a certification card.

D. Applicants not currently employed as acting managers shall complete the Manager Certification Program within five years from the date they first take the Phase I examination. These individuals may take the Phase I, II, and III examinations as many times as necessary to complete the Manager Certification Program, as long as all three phases

are completed within five years from the date the first exam is taken. If all three phases are not passed within five years, the applicant must begin a new five-year cycle and completely start over with Phase I, unless exempt from Phase I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1319. Requirements/Procedures for Manager

Certification for Non-Degreed Persons

A. The applicant must possess a high school diploma or GED and must be an employee of a SFA in Louisiana.

B. The applicant must have successfully completed Phase I, Phase II and Phase III examinations, respectively.

C. The SFA shall submit to the State Agency a copy of each applicant's high school diploma or GED, or transcript verifying graduation, to enroll the applicant for the Phase I examination.

D. An applicant not currently employed as an acting manager shall complete the Manager Certification Program within five years from the date he/she first takes the Phase I examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1321. Requirements/Procedures for Manager

Certification for Degreed Persons

A. Applicants holding an associate's, bachelor's, or master's degree from a regionally accredited institution with 18 semester hours of Food and Nutrition and/or Institutional Management may be exempt from taking the Phase I exam.

B. A degreed person must complete Phase II and Phase III training and pass the Phase II and Phase III examination.

C. The SFA shall submit to the State Agency a copy of the applicant's official college transcript to register applicant for the Phase II exam. The transcript will be reviewed to determine whether the individual has successfully completed the required 18 hours of Food and Nutrition and/or Institutional Management.

D. Degreed persons shall have three years from the date they first take the Phase II examination to be certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1323. Requirements/Procedures for Temporary

Certification

A. Temporary certification for an applicant may be requested only when no qualified certified manager desiring the manager or food production manager/assistant manager position is available within the system.

B. An applicant must possess a high school diploma or a GED to receive a temporary certificate.

C. The request for a temporary certificate must be made at the time of the applicant's effective appointment date as manager. The local CNP director/supervisor shall submit, to the State Agency for approval, the prospective manager's name, starting date as manager, and a copy of the applicants' high school diploma or GED. Upon State Agency approval, a copy of the request will be returned to the School Food Authority for the applicant to assume said position.

D. Temporary certification (T2, T3) is granted for one year, August 1 through July 31. If all requirements for full certification are not completed within this year, temporary certification may be renewed; but the renewal may be issued only twice. A T2 shall be used to designate the second year. A T3 shall be used to designate the third and final year to complete the requirements. Renewal of temporary certification must be requested on the State form submitted to the State Agency prior to July 31 of each year for persons serving as acting managers.

E. Temporary certificates issued after January 1 will be valid through the following school year.

F. Acting managers and food production manager/assistant managers serving on temporary certificates must become certified within three years of the time the temporary certification was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1325. Employment Policies

A. Policies regarding the time of reporting and leaving, permits to leave, number of days, hours per day to work, and salaries are all the responsibility of the SFA. Documentation is mandatory.

B. A salary schedule is desirable and wage/hour laws must be followed. Starting managers' salaries shall be higher than salaries of other site-based school food service employees. Food service employees may be retained by providing an adequate and equitable salary schedule. Salaries should be based on a classified salary schedule recognizing and compensating positions of equal level at the same rate, establishing differentials for positions that demand greater responsibility or ability. A specific wage shall be established for substitutes in accordance with wage/hour laws

C. Fringe benefits are allowable. Fringe benefits may also include compensation for personal consumption or bonuses for schools/employees that meet preset goals. Meals served to school food service employees are considered a fringe benefit. (Refer to Financial Management and Accounting Chapter.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1327. Personnel Policies

A. The success of school food service programs depends to a large extent on the management and effectiveness of its personnel. Personnel policies should be established in writing. Policies to be addressed with all school food service employees should include the following:

1. application for employment;
2. disciplinary procedures;
3. employee meals;
4. employee job responsibilities;
5. evaluations;
6. health requirements;
7. grievance procedures;
8. insurance and fringe benefits such as social security and retirement;
9. local agency's philosophy on CNPs;
10. organizational chart;

11. overtime pay;
12. payroll and wage verification;
13. professional organizations;
14. rest periods and breaks;
15. sick leave and vacation;
16. staffing assignments, steps, grades;
17. standards for employee appearance, grooming, work habits and food handling;
18. time and attendance records;
19. training;
20. uniforms;
21. work schedules.

B. Responsibilities and duties of all personnel shall be established. School systems must implement personnel policies in compliance with State regulations. The management of personnel must be consistent with all-applicable Federal and State labor laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1329. Personal Appearance

A. Uniforms of the same color, effective hair restraints, hose or socks, and low-heeled, enclosed shoes with non-skid/slip-resistant soles that provide adequate protection are standard for school food service employees and volunteer workers. Aprons should be worn over uniforms during food preparation and clean-up periods. Student workers must also wear effective hair restraints, jackets, smocks, or aprons. All employees and volunteer workers should be clean and neat at all times. Artificial nails are prohibited. Jewelry must be restricted to wedding bands and/or stud earrings. A laboratory coat may be worn over a uniform. A washable sweater may be worn when necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1331. Staffing for Individual Programs

A. A staffing formula using “meals per labor hour” (MPLH) is an excellent tool to assist in determining the number of labor hours needed at an individual site or to determine the productivity rate of each site. The productivity rate or meals per labor hour (MPLH) is the number of meal equivalents (all lunches, ½ of all breakfasts, 1/5 of all snacks, extra sales meal equivalents) produced and served per hour of labor used. (Refer to Chapter 5: §531 for additional information on converting breakfast, lunch, snacks, and extra sales into meal equivalents.) The MPLH may vary depending on the following factors:

1. type of food production system (on-site, central kitchen, bulk satellite, pre-plated satellite, etc.);
2. level of service (self-serve, plated on serving line vending, etc.);
3. menu choices (scratch cooking versus convenience items);
4. kitchen layout and design;
5. facility size;
6. skill level of employees, etc.

B. The following steps may be used to develop a target MPLH:

1. determine a feasible target MPLH for each site; yet determination can be

based on industry standards or on data provided from the previous year’s staffing decisions with necessary adjustments.

a.

$\frac{\text{Number of Meal Equivalents (Output)}}{\text{Number of Labor Hours (Input)}} = \text{Productivity Rate or Meals per Labor Hour (MPLH)}$

2. calculate the MPLH for each site; an example is given below.

a.		
Site: School 444	No. Labor Hours Assigned: 36	Target MPLH: 15
Meals Served	Meal Equivalents	
ADP Lunch	335	335
ADP Breakfast	190	95
ADP Snack 76	15	
Extra Sales Equivalents* -----		8
Total Meal Equivalents		453
MPLH = 453 meal equivalents ÷ 36 hours assigned labor = 14		
Hours Over/Under: +1		
Meal Equivalents:		
1 lunch = 1 meal equivalent		
2 breakfasts = 1 meal equivalent		
5 snacks = 1 meal equivalent		
Extra sales income totaling the average cost of a meal from the previous school year = 1 meal equivalent		
* Extra sales income from previous year ÷ meal equivalent factor/number of serving days =		
$\frac{\$3,066.50}{2.26} \div 180 = 8$		

3. make adjustments as deemed necessary to meet the target MPLH; in the example, the site may be considered overstaffed because it is producing 14 meals per labor hour, which is less than the targeted goal of 15 MPLH; the SFS Director must make a decision to accept this level of productivity, lower the number of labor hours at this site, or increase the number of meal equivalents (if possible) at this site.

C. Labor costs include all expenses paid to school food service personnel including the central office staff, and warehouse and maintenance employees (if paid with school food service funds). Fringe benefits such as Social Security taxes, medical taxes, life insurance, health insurance, worker’s compensation, unemployment taxes, vacation days, sick leave, employee meals, and uniforms should be included in labor cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

Chapter 15. Equipment

§1501. Planning

A. Efficient planning is essential to equip school food service departments and enable them to attain the objectives of the National School Food Service Programs. The complexity of building construction and the technical details of specifications and contractual procedures require the combined efforts of architects, consulting engineers, equipment specialists, sanitarians, and State and local school food service supervisory staff in all stages of planning and construction.

B. For information in planning and equipping school food service facilities, refer to the following:

1. "A Guide for Purchasing Food Service Equipment," USDA, FNS, NFSMI order number NFFSMI-R-35-98, Louisiana Register Vol. 27, No. 08 August 20, 2001

NFSMI Telephone 1-800-321-3054 or Web Address <<http://www.olemiss.edu/depts/nfsmi>>

2. "The New Design Handbook" NFSMI, The University of Mississippi; P.O. Drawer 188; University, MS 38677-0188, Telephone 1-800-321-3054 Web Address <<http://www.olemiss.edu/depts/nfsmi>>

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1503. Initial Equipment

A. The School Food Authority (SFA), with funds other than school food service funds, shall furnish initial food service equipment for each school. Initial equipment is the equipment that a Sponsor is required to have to begin a School Food Service Program. This equipment is necessary for the basic preparation, storage and service of meals to children. It is not permissible for school food service funds to be used to repay the SFA for initial equipment. After the SFA has been granted approval for participation in NSLP and SBP, school food service funds may be used to replace worn out initial equipment or to purchase additional equipment.

B. Refer to the Table of Authorized Large and Small Equipment in the Appendix for details when planning school food service facilities. Asterisks identify minimum large equipment acceptable. Program purchases from this table need no prior State Agency approval. Small equipment designed to prepare, store and serve food is considered initial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1505. Purchase of Equipment

A. The acquisition cost of equipment used directly in the food service operation, installation costs, and the costs of repairs to such equipment are allowable program expenses. Purchase of equipment should be made in accordance with State and Federal regulations. (Refer to §1701 Purchasing Guidelines). All accounting practices must follow guidelines outlined in Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook, Bulletin 1929. When purchasing equipment, the food service director/supervisor should specify that equipment must comply with generally accepted sanitation and safety standards. The National Sanitation Foundation (NSF) and Underwriters Laboratories (UL) seals on a product are widely recognized as evidence that the equipment meets sanitation and safety standards. Specifications should indicate the seals of approval such as NSF, UL and others when applicable. Upon request, the State agency school food service staff is available as consultants on school food service equipment. In accordance with State and Federal regulations, the expenditure of school food service funds for any items other than those specified will necessitate an audit adjustment of the total amount of the expenditure. All equipment for schools must be purchased by the SFA on a school system basis. For information on the purchase of equipment, refer to "Chapter 17: Procurement."

B. The purchase of other equipment not listed in the tables of authorized equipment is sometimes necessary for the efficiency/effectiveness of the food service operation.

Such purchases, however, require prior approval from the State Agency. Vehicles used for the sole purpose of School Food Service (distribution of commodities or meals in satellite programs and maintenance) may be purchased with prior written State Agency approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1507. Factors to Consider before approving Purchases

A. Consideration of the following conditions must be made before approving such purchase requests:

1. operating balance over the allowable amount permitted;
2. adequate supply of labor-saving equipment and small pieces of equipment to meet production needs;
3. documentation of contributions that will be made by the requested piece of equipment toward increasing participation and/or upgrading the total program;
4. the school's grade level, location, size and construction;
5. the method of distributing commodities;
6. knowledge of facility or an on-site visit by the State agency program manager prior to approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1509. Equipment Inventory

A. An annual inventory of equipment valued at a unit acquisition cost of \$1000 or more with a useful life of one year or more is required. The SFA shall follow property management standards to safeguard school food service property as described in "Chapter 5: Financial Management and Accounting."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1511. Unauthorized Equipment

A. Items such as the following are not authorized for purchase from school food service funds: home-type equipment such as chest freezers, small hand mixers, popcorn machines and initial equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1513. Disposal of Equipment

A. Refer to "Chapter 5: §523, Disposition of Equipment" for guidelines for disposing of equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1515. Appendix

A. Table of Authorized Large Equipment

B. Table of Authorized Small Equipment

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

Appendix A. Table of Authorized Large Equipment Number of Lunches Served per Day

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Chairs--	*	*	*	*	*	*	*
Tables--	*	*	*	*		*	*
DISHWASHERS, SINKS AND RELATED EQUIPMENT	1	1					
Dishwashers: Under the counter or free-standing (commercial)							
Single-tank door (automatic)			*1				
Single-tank conveyor with integral prewash				*1			
Double-tank conveyor with or without integral prewash					*1	*1	*1
OR Flight dishwasher (with integral prewash) with or without automatic tray stacker						*1	*1
Soiled dish table—minimum length of 100 inches includes area for receiving soiled table service, disposal, racking, etc.			*	*	*	*	*

*Where more than one number is shown in the same block, the larger number is recommended. The number with an asterisk indicates minimal initial equipment.

**Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served Per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Clean dish table--minimal length of 60 inches for door type dishwashers and 100 inches for conveyor-type. For conveyor-type dishwashers, a minimum of 100 inches of clean dish table in straight line is recommended before making a conventional 90o turn. However, if the turn is fabricated in accordance with the manufacturers' specifications for "curved rack guide," this design can make it possible for the turn to begin immediately following the discharge end of the dishwasher.			*	*	*	*	*
Disposers--3/4-1 1/4 HP units having no floor supports: Vegetable preparation or pot and pan sink Dishwashing area					1	1	1
	1	1	1	1	1	1	1-2
Pulper-Extractors						1	1
Sinks: 2-compartment (vegetable sink) with integral drainboards				1	1	1	1
3-compartment with integral drainboards	*1	*1	*1	*1	*1	*1	*1
Hand--the exact number of hand sinks and compartment sinks will depend upon local health codes and whether there are partitioned areas specifically designated for baking, vegetable preparation, pre-preparation, cooking, etc., plus the overall dimensions of the various food preparation areas.	*1	*1	*1	*1	*1	*1	*1

**Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Water Systems For Dishwashers: Booster Heater—Minimum Size To Maintain 150° F Wash And 180° F Rinse Softner Water Heater—Minimum Size To Maintain 150° F Wash And 180° F Rinse	Need Determined By Location Of Water Heater And Type Of Dish Machine						
	As Needed						
	*	*	*	*	*	*	*
FOOD PREPARATION EQUIPMENT		*1	*1	*1	*1	*2	*3
Convection Ovens: Single Stack Combination Oven/Steamer				2	2	3	4
			1	1	1	1	1-2
Where Space Is At A Premium, Double-Stack Convection Ovens Could Be Used In Lieu Of Two Separate Single-Stack Convection Ovens.							
Ranges—Utility: 12" To 18" Top Cooking Only (2-Burners Or 1 Rectangular Hot Plate)	1	1	1	1	1	1	1
Commercial Microwave Ovens	As Needed						
Hood, Ducts, Air Movement, And Fire Protection Equipment As Required By State Law	*	*	*	*	*	*	*
Deep Fat Fryer Mobile Filter	1	1	1	1-2	2	3	3
	As Needed						

**Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Steamers: Low pressure or pressureless; universal pan slides (two compartments)			*1	*1	*1	*1 2	*2
Trunion Kettle (5 - 10 gallon)	1						
Steam-jacketed kettles and tilting-braising pans: 20 gallon kettle		1	1		?		1
30 gallon kettle					*2	*2	
40 gallon kettle (tilting recommended)				*1			*2
60 gallon kettle, tilting					*1	*1	
OR			1				
20-25 gallon tilting braising pan							
30-35 gallon tilting braising pan					*2	*2	
40 gallon tilting braising pan				*1			*2
Pot and kettle filler--swinging faucet for steam kettle and steamer		1	1	1	2	2	2

**Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
FOOD MACHINES (MIXERS, VCM, CUTTERS, SLICERS)	*1						
Mixers—batter, beater, dough-hook, and wire whip:							
12 qt. With attachment #2							
20 qt. With attachments #1, #2 and #3		*1	*1			1	1
30 qt. With attachments #1, #2 and #3				*1			
60 qt. With attachments #1, #2, and #3					*1	*1	*1
Attachments:							
1. High speed drive							
2. Vegetable slicer and 5/16" shredding plates and grater.							
3. Bowl truck							
OR							
Food processor with attachments (2 1/2 quart)	1	1					
Vertical cutter mixer--continuous feed:							
2 1/2 quarts			1	1			
6 quarts					1		
40 quarts					1	1	*1

**Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Food cutters:					1	1	1
A food cutter is not required if a school has a vertical cutter mixer or a mixer with necessary attachments.							
Table model							
Food slicers:	1	1	1	1	1		
Electric (manually-operated)							
Electric (automatic)		1	1	1	1	1	*1
When preparing large quantities of sliced foods, schools should consider purchasing an automatic food slicer.							
Tables--food preparation: stainless steel, movable, shelves and drawers optional. Refer to references listed in the Planning section of the Equipment chapter for number and size needed.				1 6'	1 6-8'	*1 6-8'	*1 8'
Baker's							
Cook's	*1 6'	*1 6'	*1 6'	*1 8'	*1 8'	*1 8'	*1 8'
Work			1 6'	1 6-8'	*1 6-8'	*1 6-8'	*1 6-8'

**Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
REFRIGERATION EQUIPMENT	*1	*1	*2	*2	*1	*1	*1
Refrigerators:							
Reach-in (number of sections)			3	3	2	2	2
Pass-through should have one section per serving Counter		*1	*1	*1	*2	*2	*3
Freezers:	*1	*1	*2	*2	1	1	1
Reach-in (number of sections)							
Walk-in:				1	*	*	*
Refrigerator							
Freezer--8' x 10' minimum size recommended: Refer to references listed in the Planning section of the Equipment chapter for size recommended.				1	*	*	*

Vinyl strip curtains for walk-in freezers, refrigerators and milk coolers	As needed						
Ice machine	Size needed may be determined by size of salad or specialty bar(s).						
SERVING LINE EQUIPMENT Checker or cashier's section and accessory equipment such as chair/stool, cash box, shelving, etc.	Need and number determined by method of collection and number of serving lines						
Cold food section—Refer to references listed in the Planning section of the Equipment chapter for size and number of wells needed.		*	*	*	*	*	*
Hot food section—Refer to references listed in the Planning section of the Equipment chapter for size and number of wells needed.		*	*	*	*	*	*

**Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
SERVING LINE EQUIPMENT (Cont'd.) Milk cooler—capacity to meet program needs. Approximately 1 cubic foot per 50 half pints.		*	*	*	*	*	*
Salad bar	Number needed determined by number of serving periods and participation						
Pass-through holding cabinet	Number needed determined by number of serving counters						
Self-leveling carts, tableware, plate or tray	Number needed determined by number of serving lines						

**Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
OFFICE EQUIPMENT							
Individual School (Manager's office)	1	1	1	1	2	2	2
Desk							
Chair	1	1	1	1	2	2	2
Cabinet—locking:							
File	*1	*1	*1	*1	*1	*1	*1
Storage	1	1	1	1	1	1	1
Calculator/adding machine	1	1	1	1-2	2	2	2
Computer							
Printer							
Facsimile Machine	The type and number of computers and & printers purchased should be determined by the type of meal service for the school and the student participation.						
	1	1	1	1	1	1	1
Telephone	1	1	1	1	1	1	1
Central Office: Computer	The size and amount of equipment purchased should be determined by the number of employees, student participation and usage. Only one copier and facsimile machine may be purchased with school food service funds. The type and number of computers and printers purchased should be determined by the size and complexity of the SFA.						
Printer							
Scanner							
Computer hardware							
Computer software							
Audio-visual equipment							
Calculator/adding machine							
Chairs							
Conference table and chairs							
Copier							
Desk							
Desk lamp							
Facsimile machine							
Telephone							

Table of Authorized Large Equipment (Cont'd.)
Number of Lunches Served per Day

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
MISCELLANEOUS EQUIPMENT	As Needed						
Cabinet, holding hot and cold, should be equipped with Universal pan slides.	As Needed						
Reach-in Mobile	As Needed						
Burglar Alarm	As Needed						
Heat lamps (counter unit or wall mounted)	As Needed						
Washer and/or dryer-clothes	1	1	1	1	1	1	1
Wet-dry vacuum cleaner, commercial size	1	1	1	1	1	1	1
Floor polisher or cleaner	1	1	1	1	1	1	1
Fan, pedestal, ceiling or window	Number determined by size of facility						
Fan, exhaust type, for exhausting fumes from kitchen and ventilating storeroom.	*	*	*	*	*	*	*
Handwashing facilities, for students	Number determined by number of serving lines and/or cafeteria entrances						

Appendix B - Table of Authorized Small Equipment
Number of Lunches Served per Day

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
CLEANING EQUIPMENT	1	2	2	3	3	3	4
Brooms:							
Heavy sweeping type							
Floor--bristle 15" or 16"	1	1	2	2	2	2	2
Floor--soft push 16" or 18"					2	2	2
Brushes:							
Gong--5" x 6", short handle, nylon bristle	1	1	2	2	3	3	4
Gong--5" x 6", long handle, nylon bristle	1	1	2	2	3	3	4
Kettle drain--nylon bristles	As Needed						
Kettle--nylon bristles	As Needed						
Scrub--nylon or fiber bristles	1	1	2	2	2	2	2
Wire type--app. 2" x 8" fine steel bristles	1	1	1	1	1	1	1
Mop:							
Wet--heavy duty, string or sponge, detachable wood handle	2	2	2	4	4	4	6
Mop bucket	1	1	2	2	2	2-3	3

Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Pails:							
Water--12 quart plastic or galvanized metal with a bale handle	1	1	2	2	2	2	2
Pans:							
Dust--12" or 16" with long handle, heavy duty	1	1	1	2	2	2	2
DINING EQUIPMENT	As Needed						
Dispensers/Stand:	As Needed						
Napkin--corrosion resistant material	As Needed						
Straw--corrosion resistant material	As Needed						
Condiment--corrosion resistant material or plastic	As Needed						
Flatware--stainless steel, medium weight or disposable:	As Needed*						
Forks	As Needed*						
Knives	As Needed						
Spoons	As Needed						

Tableware: Bowls cereal, fruit and soup	As Needed
Cups	As Needed
Disposable Cups and/or bowls	As Needed
Compartment plates or trays: Disposable or non-disposable plates and/or trays	As Needed
Four-compartment plates	As Needed

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
OR	As needed*						
Six-compartment tray	As needed*						
Flat serving tray	As needed*						
Tumblers: Heat treated	As needed						
DISHWASHING EQUIPMENT							
Baskets or racks:	As needed*						
Sterilizing tableware	As needed*						
Silver	As needed*						
Carts:							
Flatware and tray with shelf at top to accommodate plastic cylinders for flatware. Recommended when using service trays and plates.	As needed						
OR	As needed						
Flatware. Recommended when using compartment trays.	As needed						

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
AND	As needed						
Plate/Tray-self-leveling unit should be adjustable.	As needed						
Flatware cylinders	As needed						
Garbage containers:							
Heavy duty with lid and fit under drop-off chute in dishroom	As needed						
Garbage can dollies (if cans are used)--steel frame	As needed						
Racks:							
Lightweight plastic—various types to accommodate table service used in operation: i.e., compartmentalized tray, service tray, plates and flatware	As needed						

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Dish dolly--to hold standard dish racks	As needed						
Pot	As needed						
Soak tanks for flatware: Designed to hold one combination dish rack; should have closing drain and locking wheels	As needed						
PREPARATION AND SERVING EQUIPMENT	1	1	2	2	2	2	3
Beaters: Wire whip--14" to 20"; corrosion resistant	1	2					
Board: Cutting--18" x 24" x 3/4"; plastic or composition rubber	As needed						
Boilers: Double--flat bottom insert with fitted cover; aluminum or stainless steel; hotel weight: 12 quart 20 quart (if kettle not available)	As needed						
	As needed						

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Bowls: Mixing--aluminum, plastic, or stainless steel: 4 quart	1	1					
8 quart	1	1	1				
16 quart		1	1	1	1	1	1
24 quart			1	1	1		
30 quart					1	1	1
Bowl stand: For hand-mixing bowls, stainless steel or aluminum, with or without pan rack below			1	1	1	1	1
Brushes: Pastry--nylon bristles and handle	1	2	3	3	3	3	4
Vegetable--nylon bristles and handle	1	2	2	3	3	3	3
Can opener: Institutional table mounted, manual, or electric heavy duty	1	1	1	2	2	2	2

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Chopper: All-purpose, approximately 3 lb. capacity, manual, non-corrosive metal	1	1					
Colanders: Heavy duty aluminum or stainless steel:							
11 quart	1	1	1	1	1	1	
16 quart		1	1	1			1
21 quart			1	1	2	2	2
Cooling racks: Aluminum or stainless steel, universal pan slides	As needed						
Cutlery: Knives--blades of high carbon content or stainless steel, full long construction; NSF-approved with plastic handles Boning--6" flexible narrow blade	1	1	1	2	2	3	4
Boning--6" stiff wide blade	1	1	1	2	2	3	4
Bread	1	1	1	2	2	3	4
Butcher (optional)	As needed						
French cook's--10" blade	1	1	1	2	2	2	3

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Fruit--6"	1	1	1	1	1	1	1
Paring--carbon, spear, or clip point app. 2 1/2-3" blade	2	2	2	2	2	2	3
Slicing--12", serrated edge	1	1	1	2	2	2	3
Knife sharpeners: Carborundum	1	1	1	1	1	1	1
Steel 12" magnetized	1	1	1	1	1	1	1
Knife holder	1	1	1	2	2	2	2
Peeler: Fruit and vegetable, swivel, hand-operated	1	1	1	2	2	2	3
Server: offset blade 2 1/4" x 2 1/4"	1	1	2	2	4	4	4
Sectioner: 6-8 parts, knives of high grade carbon steel	1	1	1	2	2	2	2
Spatulas: Wide blade, short handle for serving	1	1	1	2	2-4	2-4	4
8-10", long, narrow or wide	1	1	2	2	4	4	4
Spreader: sandwich, flexible 4" blade	1	2	2	2	2	2	3
Turner: Utility--heavy duty long handle, 3" x 8" blade	1	1	1	2	2	2	2

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Wedge and Corer (for fruit)--stainless steel blade	1	1	1	2	2	2	2
Cutters:							
Biscuit—hand	1	1	2				
Biscuit--rolling pin type				1	1	2	2
Multi-cutter--3" diameter, 5-wheel				1	1	1	1
Dredges (shakers):	1	1	1	2	2	3	3
Salt, pepper, and spices; aluminum, seamless							
Forks:							
Cook's pot—long handle, 21"	1	1					
Cook's--12"-18", 2 tines, forged hardwood handle	1	1	1	4	4	4	4
Sanitary plunger type--per counter	1	1	1	1	1	1	1
Funnels—aluminum or plastic:							
1 pint	1	1	1	1	1	1	1
1 quart	1	1	1	1	1	1	1

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Grater:							
Hotel--hand, heavy duty, aluminum or stainless steel, fine or coarse	1	1	1	1	1	1	1
Ladles--stainless steel portioning:							
2 oz., 10"-12"	1	1	1	2	2	2-4	4
4 oz., 12"-14"	1	1	1	2	2	2-4	4
8 oz.	1	1	1	2	2	2-4	4
Transferring—1-4 quart, stainless steel				1	1	2	2
Long handled server (2 oz., 4 oz. and 8 oz.)	1	1	1	2	2	2-4	4
Measures—aluminum or stainless steel:							
Spoon set	2	2	3	4	4	4	4
Cup set—graduated with pouring lip	2	2	4	4	4	4	4
Quart—graduated	1	2	2	2	2	2	4
Gallon—graduated		1	1	2	4	4	4
Mixer bowl dolly--use with 30-quart mixers or larger	As needed						
Mixer stand--for 20-quart or smaller mixers, stainless steel, with locking wheels, with rack for attachments	As needed						

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Paddle--kettle, perforated aluminum or stainless steel, sized to fit kettle	One per kettle						
Pans--aluminum or stainless steel, heavy duty:							
Bun or sheet--17 3/4" x 12 7/8" x 1"	1	1	1	2	2	2	2
Bun or sheet--18" x 26" x 1"		6	12	24	32	32	40
Muffin--12 or 24 cups per frame, aluminum	2 or 4	6 or 12	8 or 16	10 or 20	12 or 24	24 or 48	27 or 54
Sauce--2 quart, long handle	1	1	1	1	1	1	1
Sauce--4 quart, long handle	1	1	2	2	2	2	2
Serving--20" x 12" x 2 1/2"	4	6	8	20	32	40	48
Serving--20" x 12" x 4"	2	2	3	5	10	12	14
Serving--half size, 10" x 12" x 2 1/2"	1	1	1	2	2	3	6
Serving--half size, 10" x 12" x 4"	1	1	1	2	2	3	6
Pitchers:							
Batter--2 quart, stainless steel or aluminum			1	1	1	1	2
Portion filler--for preparation of flowable food into single service containers	Optional						
Water--aluminum or stainless steel	Optional						
Pots--stock, aluminum, hotel weight:							
3 gallon with cover	1	1					

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
6 gallon with cover	1	2					
Rolling pin--heavy duty, 4" x 14", revolving handles	1	1	1	2	2	2	2
Scales:							
Counter or baker's 25-30 lb. with 1/4-1/2 oz. graduations, balanced type	1	1	*1	*1 2	*1 2	*1 2	*2 3
Portion--1/4 oz. graduation	1	1	1	1	1	1	1
Scoops:							
Flour--die-cast aluminum, seamless 32 oz. or 48 oz.	1	1	2	2	2	4	4
Portioning--stainless steel, plastic handle:							
Size numbers 8, 10, 12, 16, 20, 24	1 each	2 each	2 each	4 each	4 each	4 each	6 each
Size numbers 6, 30, 40	1 each	1 each	1 each	2 each	2 each	2 each	2 each
Scrapers:							
Plate--rubber	1	2	4	4	6	6	6
Bowl--rubber 4" to 6" wide flexible nonmetallic blade	1	1	2	4	6	6	6
Dough--stainless steel blade, 6"; wood handle			1	1	2	2	2

Shears--kitchen, 7" to 8" steel	1	1	2	2	2	2	2
Sieve--flour, aluminum 16" to 20" diameter	1	1	1	1	1	1	1

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Skimmer—stainless steel or aluminum 4" to 6" diameter with app. 12" handle	1	1	1	1	1	1	1
Slicer--egg, double piano wire, cast aluminum	1	1	1	1	1	1	1
Spoons:							
Stirring--14" to 18" long, solid stainless steel	1	2	3	4	4	4	4
Serving--solid, slotted and perforated, stainless steel	4	6	7	10	10	10	12
Strainer--10" to 12" diameter	1	2	2	2	2	2	2
Thermometers:							
Bimetal--range 0° to 220°F in 2° scale division	As needed						
Meat--range 140° to 200°F in 5° scale divisions	As needed						
Oven range 200° - 600°F in 10° scale divisions	As needed						
Refrigerator/freezer--range-40° to 120°F in 3° scale division	As needed						
Tongs:							
Serving	2	2	2	4	4	4	6
Spaghetti	1	1	1	2	2	2	4
Trays:							
Serving--12" x 16" or 14" x 18"	Determined by type of service						

**Table Of Authorized Small Equipment (Cont'd.)
Number Of Lunches Served Per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
STORAGE EQUIPMENT							
Baskets	As needed						
Cans or containers:							
20-30 gallon, tight fitting lids, galvanized metal or heavy duty plastic; for storage, equipped with dolly	3	4	4	4	6	6	6
OR							
Stainless steel or heavy duty plastic (portable to fit under baker's table) bins used for storage	3	4	4	4	6	6	6
Carts:							
Utility--2 or 3 stainless steel or fiberglass shelves, stainless steel or aluminum tube frame	As needed						
Containers:							
Food storage with lids	1	2	2	2	3	4	4

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Dolly: With removable handle (case cart) 19" x 25" platform to accommodate two cases of #10 cans per tier	As needed						
Racks: Bun pan	As needed						
Can	As needed						
Dunnage	As needed						
Refrigerator storage, slotted shelves for air movement.	As needed						
Scales: 250 lb. Capacity Dial type – mobile Or Beam – counter or mobile, floor model Or Digital			1	1	1	1	1
Shelving: Dry storage—noncorrosive material	As needed						
Skids: Semi-live, 800-pound capacity, 24" x 36" platform size; should have small turning radius	As needed						

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Thermometers: Refrigerator and freezer, range -40° to +70°F in 1° scale divisions	At least one per refrigerator unit						
Dry storage in pantry, range -20° to +120°F in 2° scale divisions	As needed						
Trucks: Hand—2-wheel; 500 lb. Capacity, tubular or channel steel Frame	As needed						
Hand--4-wheel, 800-pound capacity, steel frame, wood or steel body, counter sink bolts, 24" x 42"	As needed						
MISCELLANEOUS Clock: Electric	1	1	1	1	1	1	1
Cutters: Wire	1	1	1	1	1	1	1
First Aid Kit	1	1	1	1	1	1	1
Sanitizer test kits	As needed						
Garnishing kit	1	1	1	1	2	2	3
Fire blanket: to meet State standards	1	1	1	1	1	1	1
Fire extinguisher: to meet State standards	1	1	1	1	1	1	2

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Hammer: with nail puller	1	1	1	1	1	1	1
Ice pick	1	1	1	1	1	1	1
Ladder—aluminum							
Hose—heavy duty	As needed						
Mats: Floor—interlocking synthetic, rubber or vinyl, slip resistant, grease and alkali resistant	As needed						
Pastry bag with cake decorating tubes							
Blenders--heavy duty	As needed to prepare special diets						
Pliers	1	1	1	1	1	1	1
Screwdriver	1	1	1	1	1	1	1
Stools—step-type	1	1	1	1	1	1	1
OPTIONAL ITEMS							
Fry pan—14"	1	1	1	1	1	1	1
Gloves: Heavy-duty elbow length	1	1	2	2	4	4	6
Rack: Broom and mop--stationary type	As needed						

**Table of Authorized Small Equipment (Cont'd.)
Number of Lunches Served per Day**

	25-75	76-150	151-150	251-500	501-750	751-1000	1001-1250
Disposable bag		?	1	1	1	1	1
Towel—portable or folding type	1	1	1	2	2	2	2
Roast pans—heavy-duty aluminum:							
5-6" deep	1	1	1	1	1	1	2
Square, 2 gallon	1	1	2	2	2	2	2
Salt and pepper shakers	Determined by method used						
Equipment cart: With stainless steel side trays, with or without pan rack below, locking wheels, aluminum or stainless steel frame	As needed						
Timer: Range of 60 minutes, marked in one-minute scale divisions	1	1	1	1	1	1	1
Dispensers:							
Foil	As needed						
Paper towels	As needed						
Soap	As needed						
Wax paper	As needed						

Waste containers:	
Restroom, foot operated Kitchen area	As needed
Safety belts	As needed

Chapter 17. Procurement

§1701. Purchasing Guidelines

A. The goal of school food service (SFS) is to serve nutritious, attractive, and moderately priced meals. Meals that meet these standards are the result of effective planning and management including planning, purchasing, preparation and service. The meals served can be no better than the quality of food purchased. Wise purchasing practices help upgrade the quality of food served, increase participation, reduce waste and control costs.

B. An organized and efficient procurement procedure, which is an important aspect of food service, is essential for good management of the food service program. The SFS supervisor or manager should be responsible for determining the quality, quantity, performance, and usage of each product purchased. SFAs must have a written procurement plan that contains the code of conduct and describes procurement procedures. (Refer to §1735 for a sample procurement plan.)

C. Procurement procedures must ensure that all Federal and State laws and regulations governing procurement are followed when purchasing materials and supplies utilized in the SFS program. These procedures include equipment, vehicles, and other movable property, food items and other supplies used in food service. It is not allowable to use school food service funds to purchase initial equipment for a school food service program. (Refer to Equipment Chapter.)

1. Federal procurement standards

a. United States Department of Agriculture, Code of Federal Regulations (CFR) Chapter 7 CFR Parts 210.21, 3015 “Uniform Federal Assistance Regulations, 3016 and 3019 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” (3016) and “Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations” (3019); 7 CFR Part 3017 “Government-wide Debarment and Suspension” and 7 CFR Part 3018 “New Restrictions on Lobbying” (Revised January 1, 2001).

i. Website address:

http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3016_01.html,

http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3017_01.html,

http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3018_01.html, and

http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3019_01.html.

b. The State procurement standards are found in §1581 of the Louisiana Procurement Code (La. R.S.39:1581) (Refer to the Louisiana Department of Education web site – www.doe.state.la.us - publications – Bulletin 1929: Louisiana Accounting and Uniform Governmental Handbook.)

D. All procurement transactions shall be conducted in a manner so as to provide maximum open and free competition:

1. without regard to dollar value;

2. regardless of whether by sealed bids or by negotiation;

3. without practices that restrict or eliminate competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1703. Procurement Systems

A. Competitive Sealed Bids (Formal)

1. All purchases of materials and supplies exceeding the aggregate sum of \$10,000 must be formally bid. Aggregate is defined as the dollar value of items purchased from a single source for a bid period: for example, quotations are obtained on a food item for a two-month period, but the foods are ordered weekly during that period. No weekly invoices total \$10,000, but the total invoices during the two-month period are over \$10,000. In this example, the aggregate amount is the value of all items purchased during the two-month period, so the item must be formally bid.

2. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to Federal procurement regulations. Any change in the SFAs normal purchasing practices resulting in the aggregate amount purchased becoming less than \$10,000 must be documented for review and audit purposes.

3. SFAs may divide schools into districts, but assigning each district to a local vendor is prohibited. This practice would not allow open and free competition. Schools may be divided into districts to organize deliveries efficiently, but an adequate number of vendors must be allowed to submit price quotations for any or all of the districts.

4. Act No. 349, 1794 of State law requires every SFA to follow formal bid procedures for the purchase of milk and milk products for use in its schools regardless of dollar value.

5. Formal bid procedure requires formal advertising with adequate purchasing descriptions, sealed bids and public bid openings. The SFA desiring to let a contract for the purchase of materials or supplies shall in its resolution providing for the contract or purchase and for the advertisement of bids designate the time and place that the bids will be received and shall at that time and place publicly open the bids and read them aloud.

a. The Advertisement

i. The advertisement for any contract for materials and supplies shall be published two times in the local newspaper that serves as the official journal for the SFA, the first advertisement to appear at least 15 days before the opening of the bids. The first publication of the advertisement shall not occur on a Saturday, Sunday, or legal holiday.

ii. The advertisement for competitive sealed bids must contain the following information:

(a.) name of the School Food Authority;

(b.) general category or description of what is to be bid;

(c.) date, time, and location of opening bids;

(d.) address and telephone number for location where invitation to bid and general detailed instructions and specifications may be obtained;

(e.) notice that the "public is invited."

b. Statement of Percentage and Dollar Amount of Federal Funding (7 U.S.C.A. S 2209d)

i. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state the following information:

(a.) the percentage of the total cost of the project or program to be funded with the Federal money, and

(b.) the dollar amount of Federal funds for the project or program.

ii. In order to comply with this requirement, SFAs may complete the following statement and include it in issued statements, press releases, requests for proposals, bid solicitations, and other documents:

(a.) "The (Name of SFA) ___ School Food Service Program is funded ___ (number) percent with Federal funds for a total of approximately \$ __ (Dollar/Units) per year."

iii. Plans and specifications shall be available to bidders on the day of the first advertisement and shall continue to be available until 24 hours before the bid opening date.

iv. When a SFA mandates attendance by bidders at pre-bid conferences as a prerequisite to bid, the date, place, and time of the pre-bid conference shall be stated in the first advertisement notice.

c. Receiving Sealed Bids

i. Each bid shall be either hand delivered by the bidder or his agent in which instance the deliverer shall be handed a written receipt, or shall be sent by registered or certified mail with a return receipt requested. The requirement that all bids be sent by registered or certified mail does not apply to **public** and parochial governing authorities..

ii. No SFA shall accept or take any bids, including receiving any hand delivered bids, on days which are recognized as holidays by the United States Postal Service (Louisiana Public Bid Law 2212(ii)).

iii. Federal regulations require sealed bids to be date stamped and maintained in a secure place until the time of bid opening. A locked file cabinet, a locked metal box or a place where there could be no question of tampering is a secure location.

d. Public Bid Opening

i. At least two employees of the SFA should be present at the public bid opening. These employees should be involved directly with the procurement process. It is desirable to have representatives from the SFS program and/or the Purchasing Department. One person should open the bids and read the prices and the other person should record the prices. School board members are not required to be present unless mandated by local policy. Since Federal

regulations mandate that the bids be opened publicly, vendors and other interested parties may also attend.

ii. The opening of bids shall be conducted at the time and place indicated in the advertisement. Bids that do not arrive at the designated place by the appointed time shall not be considered and shall not be opened. They should be marked with the time received and returned to the bidder unopened. No SFA shall open any bids on days recognized as holidays by the United States Postal Service [Louisiana Public Bid Law 2212(ii)].

e. Awarding the Bid

i. No comment should be made at bid opening about the low bid or about the bid award. The bid should be awarded only after careful review of the apparent low bidder's responsibility and responsiveness. Responsibility refers to the character or quality of the bidder, whether it is an entity with which you are safe doing business (Louisiana Public Bid Law). Responsiveness refers to whether or not the bidder has offered in its bid what has been requested in the specifications (Louisiana Public Bid Law).

ii. The provisions and requirements of the Louisiana public bid law, those stated in the advertisement for bids, and those required on the bid form shall not be considered as informalities and shall not be waived.

iii. When a SFA enters into an estimated use or delivery contract for a perishable food item, the SFA shall be prohibited from awarding another estimated use contract for the same perishable food item without first having taken delivery of at least seventy-five percent of the perishable food item under the existing contract. Perishable food items are consumable food items that have a shelf life of fewer than six months.

f. Awarding Other than Low Bid

i. Causes for selecting a bid higher than the lowest bid might be the following:

(a.) The item or service bid is not responsive to the specifications, to the invitation to bid, or to the general instructions.

(b.) The bidder is not responsible. Vendor integrity has been documented by the vendor's record of past performance.

(c.) The bid is awarded because of the Louisiana Preference Law.

(d.) The financial and technical resources of the bidder are not adequate.

(e.) There is evidence of noncompliance with public policy (EEO, EPA, etc.).

ii. A SFA should document on the bid evaluation sheet the reason the lowest bid was not accepted. If the bid is not responsive, the SFA should document what requirement it did not meet. If the SFA knows that a vendor is not responsible, every effort should be made to disqualify the vendor prior to the issuing of invitations to bid. This action would prevent the possibility of having to decline a low bid.

g. Special Prices

i. Once a bid has been accepted and a vendor offers an item at a lower price than the bid price, the SFA is not free to obtain bids or quotations from anyone other than the vendor who has received the contract unless

(a.) an amount has been specified in the bid;

(b.) that amount will still be purchased from the bidder; and

(c.) the SFA wants to purchase an amount in addition to what was bid.

ii. Small purchase procedures or competitive sealed bids must be used in obtaining prices on additional merchandise. The SFA would also be required to make a written explanation of why it needs to purchase the additional merchandise and file the explanation with the bid or quotation information.

iii. When a vendor offers an item not presently used at a special price below market value, all purchases must be based on specifications that clearly describe the item to be purchased. If the SFA has tried a new product and would like to purchase it, a clear description of the item must be written; and depending on the amount to purchase, small purchase procedures or competitive sealed bids must be used.

iv. When a vendor offers incentives such as stamps, equipment, or other prizes, the prices paid for all purchases should be based solely on the bid or quotation offered by responsible seller giving the lowest price meeting specifications. When "incentives" such as prizes, stamps, equipment, etc., are offered and accepted, the "incentive" must become the property of the school food service program and under no condition the property of an individual. Special offers often mean higher prices, or lower quality, or both. Frequently, special prices are offered on old merchandise that the vendor wants to move. Promotional items or cash rebates received from vendors must be used for school food service purposes.

h. Rejecting Bids

i. The SFA may reject any and all bids for just cause pursuant to State law. All reasons for rejecting bids must be documented in the procurement file and retained for a period of three years.

i. Disqualifying a Bidder

ii. To disqualify a vendor who fails to deliver certain items or delivers items that do not meet specifications, the SFA should document the problem, noting the date and writing an accurate description of the problem. The vendor must be notified by telephone of the problem and of how the problem should be corrected. With even the best vendors, problems occasionally arise; frequently a single telephone call is all that is needed to correct a problem. A record should be kept of the dates of all telephone calls and the information discussed shall be maintained in the event that talking with the vendor does not resolve the problem. If the problem continues, the SFA should give the vendor written notification of the problem, indicating that immediate correction is expected and that failure to do so will be considered a breach of contract and could result in the cancellation of the contract. If the vendor seems to be making little effort to resolve the problem, the SFA should discuss the problem with the school board attorney and explore other options. If cancellation of the contract becomes necessary, steps should be taken to disqualify the vendor from future bidding. If the contract is not canceled, the SFA may want to consider taking action to disqualify the vendor from future bidding.

ii. A bidder disqualified for lack of responsibility must be notified and given an opportunity for a hearing. Rejecting a bid because of unresponsiveness requires only that the bidder be informed of why the bid was rejected.

j. Withdrawing a Bid

i. Bids containing obvious mechanical, clerical, or mathematical errors may be withdrawn by the bidder if clear and convincing sworn, written evidence of such errors is furnished to the SFA within 48 hours of the bid opening excluding Saturdays, Sundays, and legal holidays. If the SFA determines that the error is an obvious mechanical, clerical, or mathematical error, it shall accept the withdrawal and return the bid security to the contractor. Otherwise, withdrawal of a bid shall result in the forfeiture of any bid bond that has been submitted.

ii. A bidder that attempts to withdraw a bid under the provisions of this section shall not be allowed to resubmit a bid on the contract. If the bid withdrawn is the lowest bid, the next lowest bid may be accepted. If all bids are rejected, any bidder that had withdrawn a bid prior to rejection of all bids shall not be eligible to bid on the contract unless the readvertisement and opening of bids is at least 180 days after the date the bid was withdrawn.

k. Inspecting Bids

i. Bids are public records that may be inspected and copied, but precautions should be taken to prevent tampering.

l. Items Omitted From Bid

i. Before a bid is sent out, every effort must be made to determine that all items needed during the bid period are listed. If an item, or several items, is accidentally omitted, the SFA must purchase the item(s) using small procurement procedures or competitive sealed bids, depending on the dollar value of the purchase. The reason that the items were not included in the original bid should be documented.

m. Documentation

i. For each formal bid, the following documentation should be maintained on file for at least three years after final payments have been made for the Federal fiscal year to which they pertain:

(a.) a copy of the Invitation to Bid, including instructions to vendors and specifications;

(b.) a copy of public advertisement(s);

(c.) a dated mailing list of vendors who were mailed a copy of the bid;

(d.) bids submitted by vendors with bid envelope and a copy of the receipt if hand delivered attached;

(e.) a bid evaluation sheet, including documentation whenever the lowest price is not accepted;

(f.) copies of bid award letters and letters to unsuccessful bidders; and

(g.) copies of contracts;

(h.) the original signed Certificate of Independent Price Determination form, for all bids received even though bidder was not awarded a contract,

(i.) any original signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions, Certification Regarding Lobbying, and Disclosure of Lobbying Activities forms, for all bids received even though the bidder was not awarded a contract.

6. To ensure compliance with Federal and state procurement regulations, SFAs shall include the following certifications by bidders, as applicable, in the formal

solicitation document (Refer to §1735 for the blank forms and instructions.):

Certificate of Independent Price Determination (All bidders),
Certification Regarding Debarment, Suspension, Ineligibility
and Voluntary Exclusion – Lower Tier Covered Transactions
(All contracts > \$100,000-See §1717),
Certification Regarding Lobbying (All contracts > \$100,000-
See §1717),
Disclosure of Lobbying Activities (as applicable).

B. Small Purchase Procedures (price quotes)

1. Small purchase procedures may be used when
a. the aggregate amount does not exceed
\$10,000.00; and/or

b. the purchases are for highly perishable materials.

2. Purchases of materials and supplies for which the
aggregate amount does not exceed \$10,000 shall be made by
obtaining an adequate number of price quotations. The
adequate number of price quotations for any items purchased
under small purchase procedures that must be obtained is
determined by local market conditions. Regardless of dollar
value, the SFA must have open and free competition. If in a
small rural parish there are only two produce vendors that
provide service to the area, two quotes may be sufficient.
However, in a larger metropolitan area where there are six
produce vendors, all six should be given an opportunity to
submit price quotations.

3. Price quotes can be oral or written. At least three
telephone, handwritten or facsimile quotations must be
obtained for materials and supplies costing less than
\$10,000. A written confirmation of the accepted offer shall
be obtained and made part of the purchase file. If quotations
lower than the accepted quotations are received, the reasons
for their rejection shall be recorded in the purchase file. All
written documentation must be maintained on file for three
(3) years after final payments have been made for the
Federal fiscal year to which they pertain.

a. Written invitations for quotations

i. Written invitations for price quotations shall
contain complete specifications and the quantity required,
and any other information, including the delivery point,
necessary for a supplier to make an acceptable quote.

b. Documentation for Price Quotations

i. The following information must be maintained
on file:

(a.) for telephone quotations, a record of all
prices quoted on a bid evaluation sheet and items awarded;

(b.) a record of price quotes dated and signed by
the person receiving the quotes;

(c.) a copy of written invitations for price
quotations including instructions to vendors and
specifications;

(d.) the dated mailing list of vendors who were
mailed a copy of the invitation for price quotes; and

(e.) a listing of price quotes submitted by
vendors.

c. Record Retention. All written documentation
shall be maintained for three years after submission of the
final Claim for Reimbursement for the fiscal year to which
they pertain. If any audit findings have not been resolved,
the records shall be maintained as long as required until the
audit is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S.
17:191-199.

HISTORICAL NOTE: Promulgated by the Board of
Elementary and Secondary Education in LR 27:

§1705. Geographic Preference

A. Geographic preference in procurements under USDA
entitlement programs is prohibited (7CFR , parts 3015, 3016
and 3019).

AUTHORITY NOTE: Promulgated in accordance with R.S.
17:191-199.

HISTORICAL NOTE: Promulgated by the Board of
Elementary and Secondary Education in LR 27:

§1707. Non-Resident Firms

A. Non-resident (out-of-state) firms must provide
written documentation that all taxes assessed by the State
and its political subdivisions have been paid. These include
franchise taxes, privilege taxes, sales taxes and all other
taxes for which the non-resident firm is liable.

AUTHORITY NOTE: Promulgated in accordance with R.S.
17:191-199.

HISTORICAL NOTE: Promulgated by the Board of
Elementary and Secondary Education in LR 27:

§1709. Other Procurement Methods

A. Competitive Negotiation

1. Competitive negotiation will be used when
competitive sealed bids are determined to be inappropriate
or unfeasible. Competitive negotiation is often used for the
purchase of produce and the acquisition of professional
services. Produce is commonly purchased by obtaining
written price quotes based on written specifications.
Competitive negotiation is especially appropriate when the
selection of a contractor cannot be made principally on the
basis of price because adequate specifications cannot be
developed to advertise the requirement formally. In the
negotiated process, technical considerations are usually
primary, although both technical and cost factors are
considered. Consideration is also given to other factors,
including the offerors proposed methodology, the offerors'
related experience, and the qualifications of the staff
proposed.

2. The solicitation document used in negotiated
procurement is referred to as a Request for Proposals (RFP).
Bidders respond to an RFP by submitting both a technical
and cost proposal. These proposals are evaluated in
accordance with evaluation factors that are cited in the RFP.
The award is made to the bidder whose combined technical
and cost proposal is the most advantageous to the School
Food Authority (SFA).

a. To ensure compliance with Federal and state
procurement regulations, SFAs shall include the following
certifications by bidders, as applicable, in the RFP. (Refer to
§1735 for the blank forms and instructions.):

i. Certificate of Independent Price Determination
(All bidders);

ii. Certification Regarding Debarment,
Suspension, Ineligibility and Voluntary Exclusion – Lower
Tier Covered Transactions (All contracts > \$100,000-See
§1717);

iii. Certification Regarding Lobbying (All
contracts > \$100,000-See §1717);

iv. Disclosure of Lobbying Activities (as
applicable).

3. If competitive negotiation is used for procurement,
the following conditions must be met:

a. Proposals will be solicited from an adequate number of qualified sources to permit reasonable competition.

b. The RFPs shall be publicized, and reasonable requests by other sources to compete must be honored to the maximum extent possible.

c. The RFPs shall identify all significant evaluation factors including price or cost required and their relative importance.

d. The SFA will provide a mechanism for technical evaluation of the proposals received, to determine which responsible bidders will be contacted for the purpose of further written and oral discussions, and selection for contract award.

e. The contract will be awarded to the responsible bidder whose proposal is most advantageous to the SFA when price and other factors are considered.

f. Unsuccessful offerors shall be notified promptly.

B. Noncompetitive Negotiation

1. Noncompetitive negotiation, a method of procurement used when no price quotations can be obtained, may be used when the following are true:

a. There exists a public emergency that will not permit a delay incident to competitive solicitation. If purchases are made in retail stores in emergency situations, itemized receipts that indicate item, cost per unit, quantity, total cost, date, and vendor must be obtained. Cash register tapes for purchases are insufficient purchase records.

b. Competition is determined to be inadequate after solicitation from a number of sources.

C. Purchasing from State Bid Contract

1. The Office of State Contracts establishes contracts for items sufficiently used by State agencies. All items on the State bid contract have been awarded under the Louisiana Public Bid Law. Public School Boards and other programs that are 100% government funded qualify to purchase from the State Bid Contract without going through the formal bid process. Non-profit entities can apply to State purchasing for authorization to use State contracts. Items may be purchased through a local vendor selling the exact same product at the award price. If a vendor from a State contract will not deliver to a SFA, according to R. S. 39:1710, political subdivisions can buy items on State contract from local vendors and even pay slightly more than the State contract price. However, the item must be precisely the same product (brand, model, etc.) that is on the State contract.

2. A copy of the State bid contracts may be obtained by sending a written request to the Director of Purchasing at the following address:

Director of Purchasing
P.O. Box 94095
Baton Rouge, Louisiana 70804-9095
<http://www.state.la.us/osp/SiteIndex>

D. Cooperative (Piggyback) Purchasing

1. Purchasing may be conducted jointly with other political subdivisions or purchases may be made under a viable contract entered by another Louisiana public entity if the vendor consents. Federal regulations encourage cooperative purchasing. It is advisable for SFAs contemplating cooperative purchasing to enter into a contract defining the responsibilities of each party. There are

several points that should be considered and included in the written plan such as specifications, billing, storage costs, delivery costs, and the dates of delivery prior to a SFA's participating in cooperative purchasing. (Requests for legal information regarding purchasing should be directed to the Attorney General's Office-Public Contracts Section, Telephone (225)342-7013.)

a. The certification requirements for debarment, suspension, ineligibility, voluntary exclusion and lobbying apply to procurement contracts totaling \$100,000 or more that are awarded through a cooperative Request for Proposal.

E. Purchasing from a Sole Source/Single Source

1. Several methods can be used when purchasing from a sole or single source. A SFA can use small purchase procedures by soliciting quotes when the aggregate amount is under \$10,000. Documentation of contacts must be maintained. Competitive sealed bids (formal advertising) must be used when the aggregate amount is over \$10,000. If the aggregate amount of a purchase exceeds \$10,000, a SFA must go through the regular bidding process even if only one source is known. If only one bid was received, documentation would be available from the single source. If no bids were received, the SFA must re-bid or consider cooperative (piggyback) purchasing, or State Bid Contract. Non-competitive negotiation may also be used if the other methods have failed. The decision to use non-competitive negotiation must be adequately justified in writing and available for audit and review.

2. Record Retention. All documentation shall be maintained for three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

F. Cost Plus a Percentage of Cost

1. The cost plus a percentage of cost method of contracting is prohibited.

G. Cost Plus a Fixed Fee

1. The cost plus a fixed fee method of procurement is allowed. Under this system, the vendor quotes both the cost plus freight of the product and the fee that covers his warehousing, financing, delivering, and sales cost, plus profit. When using this method of procurement, the vendor is subject to audit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1711. Diversion of Commodities for Processing

A. Federal and State procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$10,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$10,000 shall be made by obtaining no fewer than three telephone, facsimile or hand written quotations. Bids shall be accepted only from approved USDA commodity processors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1713. Leasing

A. If a SFA leases space such as warehouse space, competitive negotiation with a request for proposals should be used. Prior written approval from the State agency must be obtained for multiple year leases. Contracts for multiple year leases should include a clause that prohibits the lessee from making any repairs that would result in capital improvements to the property in accordance with program regulations. The contract should also stipulate that a multiple year lease is contingent on continued funding of the National School Lunch and Breakfast Programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1715. Written Contract and Bond

A. A written contract is required by procurement regulations. In addition, Circular A-110 and USDA 7 CFR Part 3016 and 3019 require the inclusion of specific contract provisions or conditions in procurement contracts.

B. To have a valid contract, one party must make an offer and the other party must accept the offer on the terms contained in the offer. Another requirement is that the offer must be definite on all essential terms. The contracts must identify the parties to the contract and must specify the subject matter, the time for performance, and the price. When a SFA sends out Invitations to Bid, it is asking vendors to bid certain estimated quantities of goods at a specific price. The SFA must then accept the offer for there to be a contract.

C. Contracts may be awarded in one of the following manners:

1. Some SFAs insert a contract clause in the Invitation to Bid. The Invitation to Bid also contains the contract provisions required by Federal regulations. To award the contract, the SFA designates the item(s) to be awarded, signs the contract clause, and mails a copy to the address listed by the vendor on the Invitation to Bid.

2. Other SFAs accept an offer by sending a bid award letter that lists the item(s) that have been awarded to the vendor. The Invitation to Bid must specify that the bid award letter, when mailed to the vendor at the address listed on the Invitation, will constitute acceptance of the offer. In addition, the Invitation to Bid must contain the contract provisions required by Federal regulations.

D. When any bid is accepted for the purchase of materials or supplies, the public entity purchasing the materials or supplies may require that a written contract be entered into between the successful bidder and the public entity; further the public entity may require that the successful bidder shall furnish good and solvent bond in an amount not less than one-half of the amount of the contract, for the faithful performance of his duties. Any such requirements shall be incorporated in the specifications and advertisement.

E. Contract Administration System

Each SFA shall maintain a contract administration system ensuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1717. Contract Provisions

A. Certificate of Independent Price Determination

1. To ensure the School Food Authority's compliance with Federal and state procurement regulations regarding competition, the original signed Certificate of Independent Price Determination from the vendor whose offer was accepted shall be an integral part of the final procurement contract. (Refer to §1735 for the Certificate of Independent Price Determination form.)

B. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. A sponsor (SFA) is prohibited from contracting with a company or individual that has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency. This prohibition does not extend to contracts in existence at the time of the debarment/suspension or to most contracts under \$100,000. The prohibition applies to any contract for audit services regardless of the amount. Furthermore, the prohibition does not apply to proposed debarments. (Refer to §1735 for blank forms and instructions.)

a. Any reference to "lower tier covered transactions" means the initial procurement contract with a vendor/contractor and the first tier subcontract under that procurement contract.

b. A vendor/contractor receiving the final award resulting from a cooperative purchase Request for Proposal that equals or exceeds the \$100,000 threshold shall meet all requirements regarding debarment, suspension, ineligibility and voluntary exclusion.

c. Suspension, debarment, proposed for debarment, and voluntary exclusion are Government-wide; therefore, an exclusionary action under one Federal program applies under all Federal programs.

2. To ensure that the SFA does not enter into a contract with a debarred or suspended company or individual, each SFA must require that each responsive bidder include a certification statement with any procurement contract bid totaling \$100,000 or more, or for audit services regardless of the amount. By signing the certification statement, the bidder certifies that neither it nor any of its principals (e.g. key employees) or any first tier procurement subcontractor of the bidder, have been proposed for debarment, debarred, suspended or voluntarily excluded by a Federal agency or program. It is the responsibility of each SFA to require the certification as part of a responsive bid. (Refer to §1735 for blank forms and instructions.)

C. Lobbying Restrictions

An SFA is prohibited from using Federal funds to pay for lobbying activities to influence the award of any Federal contract, grant, loan or cooperative agreement or any renewal, extension, amendment or modification thereof.

Certification and disclosure statements regarding lobbying activities are required of all SFA's and any subcontractors at all tiers, that receive more than \$100,000 in Federal funds. The SFA must sign and submit the certification statement to the State agency as a part of its permanent participation

agreement. The Disclosure of Lobbying Activities form is required to be submitted to the State agency whenever the SFA or a subcontractor has used non-federal funds to pay persons external to their organization for activities which would have been prohibited if Federal funds had been used. (Refer to §1735 for blank forms and instructions.)

D. Breach of Contract Terms/Remedies/Sanctions

1. All contracts other than small purchases shall contain provisions that allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract terms and that provide for such sanctions and penalties as may be appropriate.

E. Equal Low Bids

1. Contracts shall be awarded in the following order of priority when two or more low bids are equal in all respects:

- a. small business concerns that are also labor surplus area concerns;
- b. other small business concerns;
- c. other business concerns that are also labor surplus area concerns; and
- d. other business concerns

2. To determine whether an area is a labor surplus area, a SFA should contact the Department of Employment and Training (Department of Labor) Research & Statistics at (225) 342-3200. This information is found in Area Trends in Employment and Unemployment, a monthly publication provided by the United States Department of Labor-Employment and Training Administration.

3. If two or more bidders still remain equally eligible after application of the paragraph above, the award shall be made by a drawing by lot limited to those bidders. If time permits, the bidders involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.

4. When an award is to be made by using the priorities under this provision, the contracting officer shall include a written agreement in the contract that the contractor will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority used to break the tie or select bids for a drawing by lot.

D. Multi-Year Contract

1. The multi-year method of contracting is used when a special production of definite quantities of supplies for more than one fiscal period is necessary to meet needs most effectively, but funds are available only for the initial fiscal period. A multi-year contract is also appropriate when it is in the best interest of the SFA to obtain uninterrupted services extending over more than one fiscal period, when the performance of such services involves high start-up costs, or when a changeover of service contractors involves high phase in/phase out costs during a transition period.

2. When a multi-year contract is used by the SFA, the contract shall include a clause stating that the multi-year contract will be cancelled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period following the first year.

E. Extending a Contract

1. Extension of a contract into the next bid period can be granted only under special circumstances. Since

extending a bid period is a modification of the contract, the SFA must perform some form of cost or price analysis. Because circumstances that would justify a bid extension are unlikely, it is required that the SFA contact the State agency for permission should a need for a contract extension arise.

F. Energy Conservation Provision

1. Contracts will recognize mandatory standards and policies relating to energy efficiency contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act P.L. 94-163.

G. Termination Provisions for Contracts Over \$10,000

1. All contracts over \$10,000 must contain suitable provisions for termination by the grantee including the manner that the termination will be effected and the basis for settlement. In addition, such contracts shall describe the conditions under which the contract may be terminated for default because of circumstances beyond the control of the contractor.

H. Equal Opportunity Provision for Contracts Over \$10,000

1. All contracts over \$10,000 must contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 40 CFR Part 60.

I. Clean Air and Water Provisions for Contracts Over \$100,000

1. All contracts over \$100,000 shall contain a provision that requires compliance with all applicable standards, orders, or requirements issued under §306 of the Clean Air Act 42 USC 1857(h), §508 of the Clean Water Act 33 USC 1368, Executive Order 11738, and Environmental Protection Agency regulations 40 CFR Part 15 that prohibit the use under nonexempt Federal contracts, grants, or loans of facilities included on the EPA list of Violating Facilities. The provision shall require reporting of violations to USDA and to the USEPA Assistant Administrator for Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1719. Audit Provision

A. All negotiated contracts, except those awarded by small purchase procedures, shall include a provision to the effect that the SFA, the State agency, the USDA, the Comptroller General of the United States, or any duly authorized representatives shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1721. Buy American Provision

A. Public Law 100-237 directs the Secretary of Agriculture to require that whenever possible the recipient agencies purchase food products that are produced in the United States. Public Law 100-237 defines American food products as products being grown in America or, in the case of processing or packaging in America, products that contain at least 51% of domestic product. Exceptions to the "Buy

American” requirement are allowed in the following circumstances listed below:

1. The recipients have unusual or ethnic food preferences that can be met only through purchases of products not produced in the United States.

2. The products are not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality.

3. The cost of the domestic produced food products is significantly higher than the cost of the similar foreign products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1723. Certified Economically Disadvantaged Businesses (LA Economic Disadvantaged Business Act R. S. 51:1751)

A. Affirmative steps must be taken to utilize small businesses and minority-owned businesses by

1. including small and minority businesses on solicitation lists;

2. assuring that small and minority businesses are solicited whenever they are potential sources;

3. dividing total requirements into smaller tasks or quantities when economically feasible so as to permit maximum small and minority business participation; and

4. establishing delivery schedules that will encourage participation by small and minority businesses when requirement permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1725. Records

A. The SFA shall maintain procurement records sufficient to detail the significant history of a procurement such as, but not limited to the following:

1. rationale for the method of procurement;
2. selection of contract type;
3. contractor selection or rejection;
4. basis for the cost of or price in negotiated contracts;

and

5. all procurement records shall be maintained for three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1727. Code of Conduct

A. Each SFA must have a written code of conduct relative to procurement to comply with the Louisiana Code of Governmental Ethics (R.S. 42:1101-1169) and other State and Federal regulations.

1. Federal regulations require that each SFA have a written Procurement Plan that contains the Code of Conduct and describes how purchases will be handled in a school system. The Procurement Plan can be basic or it can be a

very detailed sample procurement plan can be found in §1735.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1729. School Employees Purchasing Items at Bid Price

A. The practice of school system employees buying items from vendors at the bid price is prohibited. Federal regulations require a code of conduct that states that “the recipient’s officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors.” When a person purchases at the school bid price or at another discounted price, that person is actually accepting from the vendor the cash difference between the bid price and what one would have to pay for the item in the retail market. Even if the vendor were to charge the retail price, the person would still be receiving the convenience of a personal delivery and therefore would be accepting a favor from the vendor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1731. Receiving Gifts

A. The practice of school system employees receiving gifts from vendors is not allowed. It is in conflict with State and Federal procurement regulations dealing with a code of conduct or code of ethics. No SFA employee may accept gratuities, favors or anything of monetary value from companies with which they currently, or could potentially, do business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1733. Instructions to Vendor

A. Drop Deliveries

1. If a low bid is received from a vendor who can make a drop delivery, but the instructions to vendors do not mention the acceptability of drop delivery, the bid from the vendor who can make a drop shipment or delivery at a lower price is actually a nonresponsive bid that must be rejected. Regulations specify that the invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to respond properly to the invitation. It is possible that one of the other bidders may have bid an even lower price on a drop shipment had the vendor been offered the opportunity. If the SFA will accept a drop shipment, that specification it must be clearly stated in the invitation to bid. If deliveries are to be made to schools, a list of the schools and their addresses should be included so that the bidder may calculate transportation costs.

B. Specifications

1. A specification is a statement that contains a detailed description or enumerates particulars of a product. The characteristics of a specification include the name of the product, Federal grade, size information for container and product, unit on which price will be based, quality indicators, packaging procedures and type of package, and test or inspection procedures.

2. When a public SFA desires to purchase technical equipment, apparatus, machinery, materials, or supplies of a certain type and such purchases are clearly in the public interest, the SFA may specify a particular brand, make, or manufacturer in the specifications let out for public bid. If a particular brand, make or manufacturer is specified, the model or catalog number shall be specified. The brand name or equal description may be used as a means of defining a quality standard. Wherever in specifications the name of a certain brand, make, manufacturer, or definite specification is utilized, the specifications shall state clearly that they are used only to denote the quality standard of product desired and that they do not restrict bidders to the specific brand, make, manufacturer, or specification named; that they are used only to set forth and convey to prospective bidders the general style, type, character, and quality of product desired; and that equivalent products will be acceptable. Specifications must state clearly when and where deliveries are to be made. (See §1735 for sample specifications.)

C. Index Pricing

1. The bid specification may contemplate a fixed escalation or de-escalation in accordance with the United States Bureau of Labor Statistic's Consumer Price Index or Wholesale Price Index. Bids based on specifications subject to a recognized escalation index shall be legal and valid. When using such "index pricing," the competition between bidders is based solely on the "margin" over index price that the bidder offers.

D. Child Nutrition Label (CN) or Certified Product Formulation Statement

1. Each SFA should be consistent in information sent to vendors. If a SFA will accept only CN labeled processed items or will accept either a CN labeled product or a signed and dated Certified Product Formulation Statement, this information should be stated in the instructions to the vendors. Any processed food product used in school food service programs that provides part of a meal component that does not have a yield listed in the Food Buying Guide must have either a Child Nutrition (CN) label or a signed and dated Certified Product Formulation Statement. The CN label or Certified Product Formulation Statement identifies the contribution of a product toward meeting the meal pattern requirements. (Refer to Meal Service.)

E. Minimum Drained Weights

1. It is necessary to specify minimum drained weights in specifications for canned fruits and vegetables. This information helps to ensure the minimum acceptable amount of product per can.

F. Generic Terminology

1. When writing a specification for a product without specifying brand name, the SFA shall use the generic name that is usually listed under the trade name. A brief description of the product can also be included: for example, some generic names of breakfast cereals are

- a. toasted oat cereal, donut shaped;
- b. puffed wheat cereal, sugar coated; and
- c. cornflakes, sugar coated.

G. Bread Specifications

1. If a bread item has a standard of identity, it is still necessary to specify enriched. The U.S. Food and Drug Administration has standards of identity for nonenriched bread products as well as for the enriched products. In order

to be sure of receiving enriched products, the SFA must specify enriched.

H. Grade Standards

1. When a bid specifies U.S. Grade A Fancy or U.S. Grade B Choice, it is telling the bidder that a Federally graded product is wanted. If a vendor bids an item that is only vendor grade, the bid is a nonresponsive bid. If the bid says Fancy or Choice or omits any mention of quality desired, bids may be received on undesirable products. If the SFA wishes to designate a level of quality without requiring Federal grading, "U.S. Grade A or equal" can be included in specifications. "Grade A" or "Grade B" without "U.S." preceding may be written in specifications. Federal regulations require any product that has one of the grade names on the label, without "U.S." to be of equal quality, even though there is no official grade. So in essence, Grade A has the same meaning as U.S. Grade A without requiring Federal grading. Instructions to vendors may include the statement that, when a U.S. grade is mentioned in the specifications for fruits and vegetables, Federal grading is not required; however, the items bid must meet or exceed the USDA grading requirements for the item and grade specified.

I. Approved Brands

1. It is acceptable to specify a list of approved brands as part of a specification. Many school systems test and approve brands that meet their standards and student preferences. The object of testing must not be to determine the best product on the market, but rather to determine which products are of acceptable quality to meet the needs of the program. Product testing procedures must provide for an objective evaluation of tested products, and documentation of test results must be maintained on file by the SFA. The SFA may list acceptable or approved brands on the invitation for bids. The words or equal must be included after listing the approved brands. If a brand is specified, the specification must clearly set forth and convey to prospective bidders the general style, type, character and quality of the brand desired and a statement notifying the bidders that equivalent products will be acceptable.

J. Standardized Specifications for a Geographical Area

1. Developing a manual of standardized specifications for several SFAs within a geographical area is advantageous to the vendor and the buyer.

2. Advantages to the vendor are as follows:

- a. reduction in the vendor's inventory;
- b. reduction of the vendor's dilemma of keeping up with numerous LEA specifications and item numbering systems; and
- c. if the vendor can reduce duplication of stock or inventory and can increase volume buying of agreed upon items, he should be able to negotiate lower prices.

3. Advantages to the Buyer are as follows:

- a. lowering of cost;
- b. reduction in work for each supervisor; and
- c. pooling of resources, resulting in a stronger purchasing system.

K. Estimating Quantities

1. Quantity estimates should be given for items required during a bid period.

a. Estimating quantities may help obtain a lower price. If the vendor knows the exact quantities needed, he

may be able to offer a better price. The vendor bidding on unknown quantities is in a weak position for negotiation with his supplier. With good management and active teamwork from managers, each SFA should be able to forecast usage accurately. Some supervisors hesitate to estimate quantities because of the uncertainty of commodities. Many systems utilize short bid periods for certain classes of items, because that procedure gives time to predict commodities and adjust the amounts required. If the SFA overforecasts needs, use of not only storage space either centrally or at the school level but also cycle menus will allow use of extra amounts. Again, the use of short bid periods helps to adjust surplus inventory quickly. If the SFA under-forecasts, , it may be necessary to solicit new price quotations or use sealed bids to get permission to extend the contract. One way of allowing some flexibility is to insert a clause in the general instructions to vendors giving some tolerance range in estimating amounts.

b. Estimating quantities could help to receive deliveries: for example, if several SFAs go out on bid at the same time, and one SFA estimates usage of fish portions at 50 cases, and the other SFA gets only price quotes with no estimate of quantities, the SFA that has contracted for a definite quantity will be more assured of delivery.

c. A SFA may not have a legal remedy if quantities have not been stated. In such a case, there actually is no definite contract.

L. Contract Award

1. Awarding by Item, Class, or Total

a. Whether it is more advantageous to award bids by item, class of items, or total sum will depend on a combination of factors including:

i. The size of the school system and its location: i.e., is it rural or is it located in or near a metropolitan area; is the SFA large enough that vendors could profitably handle only a portion of the business, or would they need all of the business to make delivery worthwhile?

ii. The capabilities of the vendors in the area: for example, are there several full-service vendors in the area or are the vendors limited in the lines of merchandise they carry? Do some vendors in the area handle only red meats; others hams and sausage; and others chicken, fish and prepared items? If so, it would not be to the SFA's advantage to have an all or nothing bid for chilled and frozen meats.

iii. The SFA's capabilities for storing and transporting deliveries: for example, if a delivery truck and a central warehouse with a refrigerator and a freezer are available and a drop shipment can be accepted, the SFA may want to award the bid by item even if the SFA is a small, rural school system.

b. All of the options and the estimated cost for each option: the option that provides the most benefits to the school system for the least cost should be chosen.

M. Awarding by Total

1. In order to evaluate properly a bid or price quotation that will be awarded by total to one vendor instead of by item to multiple vendors, the SFA must estimate the quantities that will be purchased. Each estimate is then multiplied by the bid price and an estimated total cost is obtained for each bid. The vendor with the lowest estimated total cost would be awarded the contract. This procedure for evaluating bids and quotations should be used for all

contracts that are awarded by total to one vendor such as milk bids, bread bids, and fresh produce quotations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1735. Appendices

A. Sample Procurement Plan

B. Sample Specifications

C. Certificate of Independent Price Determination

D. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

E. Certification Regarding Lobbying

Disclosure of Lobbying Activities

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

A. Sample Procurement Plan Child Nutrition Programs

1. The Board of Education, known hereinafter as the SFA, in order to comply with the applicable provisions of the USDA Procurement Standards and any SFA purchasing policies and procedures, has established and made accessible to all of its employees with authority to purchase for the Child Nutrition Programs, hereinafter known as the CNP, the following Procurement Plan for the purchase of goods and services for the CNPs under its authority.

a. Effective Date:

b. Purpose and Goal: The purpose of this Procurement Plan is to establish procedures for the procurement of food, equipment, other supplies, and services that will ensure that such materials and services are obtained in an effective manner and in compliance with all applicable Federal and State laws. All procurement transactions of the School Food Service, without regard to dollar value, will be conducted in a manner that provides maximum open and free competition. It is the goal of School Food Service to purchase only good quality merchandise and services that will assist in meeting the goal of serving high quality meals at reasonable cost.

c. Authorized Purchasing Agents for the CNP: (List the title(s) of person(s) who are authorized to purchase for the Child Nutrition Program(s) and designate the goods or services which they will be purchasing.)

d. Open and Free Competition will exist to the maximum extent possible by, among other ways,

i. the maintenance of a request file for potential bidders;

ii. involvement of all known vendors to the extent they are capable of meeting the needs of the SFA;

iii. utilization of clear, fair, and identical specifications;

iv. the public announcement of this Procurement Plan annually or the issuing of the same to any interested party;

the advertising or posting of all bids, proposals, etc.; and the mailing of Invitations to Bid to all known potential bidders; and

vi. the requirement of all bidders responding to a Request for Proposal or other formal solicitation document, to complete a Certificate of Independent Price Determination form.

e. Comparability of Prices and Products will be achieved through

- i. the use of identical specifications and
- ii. an on-going evaluation of products and services.

f. Adequate Documentation will be achieved through, among other ways,

- i. bidder request files;
- ii. records of communication such as telephone quotations, written quotations, proposals, bid instruments;
- iii. records of the opening and awarding of sealed bids, proposals, and quotations;
- iv. if the lowest bid, proposal, or quotation is not selected, documentation of the reasons;
- v. post-award notification to all vendors who responded;
- vi. other documentation as required; and
- vii. maintenance of all written documentation for three years after submission of the final Claim for Reimbursement for the fiscal year to which the records pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

g. Code of Conduct:

i. No employee, officer or agent of the SFA nor any member of his immediate family, his or her partner, nor an organization which employs, or is about to employ, any of the above shall participate in the selection, award or administration of a contract supported by CNP funds if a conflict of interest, real or apparent, would be involved. The SFA's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.

ii. Additionally, compliance with all applicable provisions of the Louisiana Code of Governmental Ethics (R.S.42:1101-1169) or any order, rule, or regulation promulgated thereunder is required.

iii. Penalties, sanctions, or other disciplinary actions for violation of these standards will be determined by the Louisiana Commission on Ethics for Public Employees as prescribed in the Louisiana Code of Governmental Ethics.

h. Procurement Plan Review Procedures: The will review procurement actions thereby ensuring that procurement activities comply with the standards set forth in applicable State and Federal law, avoid the purchase of unnecessary or duplicative items, and represent a fair, efficient, and effective procurement system. (List the title of the person(s) who will review procurement actions: for example, the assistant superintendent, school board purchasing agent, school board auditor, or other second party.)

i. Contract Administration

i. All purchases will be verified upon receipt.

ii. Assurance that all contractors and vendors conform in accordance with the terms, conditions, and specifications of their contracts or purchase orders will be realized.

iii. All successful vendors and contractors will be informed as to how, when, and on what basis payments will be made. The following person(s) will be responsible for contract administration:

j. Contracting with Small and Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms: To the extent possible, the above-named contractors shall be offered contracts when they are potential sources for goods and services. When feasible, total requirements will be divided into smaller quantities and delivery requirements will be established to permit maximum participation by these contractors.

k. Contract Provisions

i. All Contracts Other Than Small Purchases

(a). Contracts other than small purchases shall contain provisions or conditions that will allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract terms and shall provide for such sanctions and penalties as may be appropriate.

(b). All contracts shall recognize mandatory standards and policies relating to energy efficiency as contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 95-165).

ii. Contracts Over \$10,000

(a). All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which the termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default because of circumstances beyond the control of the contractor.

(b). All contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246 entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

i. All contracts awarded in excess of \$10,000 by the SFA to a vendor shall contain an original signed Certificate of Independent Price Determination from the vendor to ensure compliance with Federal and state procurement regulations regarding competition.

iii. Contracts Over \$100,000:

(a). Contracts over \$100,000 shall contain a provision that requires compliance with all applicable standards, orders, or requirements issued under §306 of the Clean Air Act (42 USC 1857 (h)), §508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) that prohibit the use under nonexempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to USDA and the USEPA Assistant Administrator for Enforcement.

iv. The Negotiated Contracts (except those awarded by small purchase procedures):

(a). All contracts other than small purchases shall include a provision to the effect that the SFA, the State Agency, USDA, the Comptroller General of the United States,

(b.) or any of their duly authorized representatives, will have access to any books, documents, papers, and records of the contractor, which are directly

pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transactions.

1. Procurement Methods: The procurement methods that will be used by the SFA and the categories of goods and services that will be purchased by each method are as follows: Note: The \$10,000 threshold may apply to individual item or multiple item purchases on an aggregate basis. Aggregate is defined as the dollar value of items purchased from a single source for a bid period. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to Federal procurement regulations. Any change in the district's normal purchasing practices resulting in the aggregate amount of purchases becoming less than \$10,000 must be documented for review and audit purposes.

i. Small Purchase Procedures shall be used to purchase (1) foods for which the aggregate cost is less than \$10,000, (2) fresh produce, and (3) equipment and supplies for which the aggregate is less than \$10,000. Equipment and supplies costing less than \$10,000 will not have fewer than three telephone, written or facsimile quotations.

ii. Competitive Sealed Bids shall be used to purchase (1) milk and milk products; (2) bread; (3) canned and staple foods, fresh and frozen meats, and other foods for which the aggregate is more than \$10,000; (4) cleaning supplies, paper supplies, and equipment for which the aggregate is more than \$10,000. When competitive sealed bids are used, the following conditions, stipulations, and terms will be included:

(a.) The iInvitation to bBid will be publicly advertised.

(b.) Bids will be solicited from an adequate number of known suppliers in sufficient time prior to the date set for the opening of the bids.

(c.) The iInvitations to Bid will clearly define the item or services needed in order for the bidders to be able to properly respond. This information shall include product specifications and general purchasing conditions.

(d.) The Invitations to Bid will include a Certificate of Independent Price Determination form to be completed and signed by each bidder to ensure compliance with Federal and state procurement regulations regarding competition.

(e.) All bids will be opened publicly at the time and place stated in the invitations for bid.

(f.) A firm, fixed-price contract award will be made by written notice to the responsible bidder whose bid is lowest, assuming the bid conforms to the requirements in the invitation for bid.

(g.) Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle cost for equipment, if applicable, will be considered in determining which bid is the lowest.

(h.) Payment discounts will be used only to determine the low bid when prior experience of the SFA indicates that such discounts are generally taken.

(i.) Any and all bids may be rejected when there are sound documented reasons in the best interest of the program.

(j.) Cost plus a percentage of cost method of contracting is prohibited.

(k.) Each responsive bidder shall include a signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions form with any procurement contract bid totaling \$100,000 or more, or for audit services regardless of amount.

(l.) Each vendor whose procurement contract bid offer totaling \$100,000 or more was accepted shall sign a Certification Regarding Lobbying form, and a completed Disclosure of Lobbying Activities form, if applicable. The Certification Regarding Lobbying form shall be an integral part of the final procurement contract. Any disclosure forms received by the school food authority will be copied and the original forwarded to the State agency.

iii. Competitive Negotiation will be used whenever competitive sealed bids are determined to be inappropriate, unfeasible or impossible, and will adhere to the following conditions, stipulations and terms:

(a) Proposals will be solicited from an adequate number, at a minimum two, of qualified sources to permit reasonable competition.

(b) The Request for Proposals will be publicized, and reasonable requests by other sources to compete must be honored to the maximum extent possible.

(c) The Request for Proposals will identify all significant evaluation factors including the price or costs, where required, and their relative importance.

(d) The SFA shall provide a mechanism for technical evaluation of the proposals received, to determine which responsible bidders will be further contacted for the purpose of further written and oral discussions and for the selection of contract award.

(e.) Each responsive bidder shall include a signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions form with any procurement contract bid totaling \$100,000 or more, or for audit services regardless of amount.

(f.) Each vendor whose procurement contract bid offer totaling \$100,000 or more was accepted shall sign a Certification Regarding Lobbying form, and a completed Disclosure of Lobbying Activities form, if applicable. The Certification Regarding Lobbying form shall be an integral part of the final procurement contract. Any disclosure forms received by the SFA will be copied and the original forwarded to the State agency.

iv. Noncompetitive Negotiation will be used when there is only one supplier; when, after solicitation from a number of sources, competition is determined to be inadequate; or when a public emergency that will not permit the delay involved with competitive bids and negotiation exists.

B. Sample Specifications

BEANS, GREEN, CANNED: to be packed to U.S. Grade A standard; Blue Lake variety; #3 size; cut; 6/10.

BROCCOLI, FROZEN: cut; to be packed to U.S. Grade A standard; 12/2 lb. only.

APPLESAUCE, CANNED: to be packed to U.S. Grade A standard; natural color; natural flavor; unsweetened; regular form or style; 6/10.

PEACHES, CANNED: slices; to be packed to U.S. Grade B standard; clingstone; extra light syrup; 6/10.

CHICKEN NUGGET: breaded; chopped And formed; chicken breast with rib meat And breast trim in approximately equal Proportions; fully

Instructions for Completing Certification Form AD-1048

NOTE: A School Food Authority must require that each responsive bidder include this certification statement with any procurement contract bid totaling \$100,000 or more, or any contract for audit services regardless of amount.

1. By signing and submitting this form, the prospective lower tier participant providing the certification set out on the reverse side in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the U. S. Department of Agriculture regulations 7 CFR 3017 implementing Executive Order 12 549. (Contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.)

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall

not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification that a prospective participant in a lower tier covered transaction has not been debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless the participant knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

E. Certification Regarding Lobbying

CERTIFICATION REGARDING LOBBYING

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS EXCEEDING \$100,000 IN FEDERAL FUNDS

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards (exceeding \$100,000 in Federal funds) at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure

NAME/ADDRESS of SCHOOL FOOD AUTHORITY

TITLE/TITLE of SUBMITTING OFFICIAL

SIGNATURE

DATE

Disclosure of Lobbying Activities

<p>Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352(See reverse for public burden disclosure).</p> <p>Type of Federal Action: (enter letter of choice) a. contract ___ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance</p>	<p>Status of Federal Action: (enter letter of choice) a. bid/offer/application ___ b. initial award c. post-award</p>	<p>Report Type: a. initial filing ___ b. material change For material change only: Year ___ quarter ___ Date of last report _____</p>
<p>Name and Address of Reporting Entity: ___ Prime ___ Subawardee Tier ___, if known:</p>	<p>If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p>	
<p>Congressional District, if known:</p>	<p>Congressional District, if known:</p>	
<p>6. Federal Department/Agency:</p>	<p>Federal Program Name/Description: CFDA Number, if applicable:</p>	
<p>8. Federal Action Number, if known:</p>	<p>Award Amount, if known: \$</p>	
<p>10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):</p>	<p>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</p>	
<p>11. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This Disclosure of Lobbying Activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>	
<p>Federal Use Only</p>	<p>Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)</p>	

Instructions for Completion of Sf-LLL—Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards

include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
- 10.(a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

Chapter 19. Commodities

§1901. General

A. The United States Department of Agriculture's (USDA) Food Distribution Program (FDP) is a multi-purpose program designed to improve the nutritional quality of the diets of people who participate in the program. In addition, it supports agriculture through price support and surplus removal programs. The foods are made available to the Louisiana Department of Agriculture and Forestry (LDAF) for distribution to eligible outlets such as School Food Authorities (SFAs).

B. The LDAF is required to execute agreements with each SFA. A copy of the approved agreement must be maintained on file by each SFA. The provisions in this agreement must be fulfilled at each school. USDA regulations specify that all records and documents pertaining to the FDP must be retained for a period of three years after submission of the final Claim for Reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1903. Allocations

A. SFAs are eligible for a certain dollar level of USDA commodity assistance based on the number of lunches served multiplied by the mandated rate of assistance. This commodity assistance is referred to as planned assistance level (PAL). USDA commodities that are offered to SFAs against the dollar amount of their PAL are considered entitlement foods. Other foods that are offered to SFAs, which are not offered against the PAL, are considered bonus commodities. The SFA may refuse up to 100% of the USDA commodities offered to their program through an offer/acceptance system. Once an SFA accepts a commodity through the survey the SFA must accept or find a suitable same type user as approved by USDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1905. Use and Sale of Commodities

A. The USDA expects participating schools and institutions to use any donated food or processed end product containing USDA commodities, so far as practical, in the preparation of required food items or side dishes on reimbursable lunches. In addition, USDA commodities may be used in the preparation of meals served under any other school food service meal activity such as School Breakfast Program, sale of extra servings, and meals and snacks in Residential Child Care Institutions.

B. Federal regulations also authorize the use of USDA commodities in the following school activities:

1. Training students in home economics and the Nutrition Education and Training (NET) Program.

2. Workshops, demonstrations, and tests relating to the utilization of USDA commodities by the SFA. Records must

be maintained documenting that prior written approval has been received from the LDAF.

C. Records of the kinds and quantities of USDA commodities that are used must be maintained. These USDA commodities shall not be replaced by the LDAF.

D. USDA commodities cannot be used in the preparation of any food item for use in catering/special functions except for the following: in the preparation and sale of foods for any school related functions at which the primary beneficiaries of the food are the students themselves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1907. Further Processing of Commodities

A. Federal and State procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$10,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$10,000 shall be made by obtaining no fewer than three telephone, facsimile, or hand written quotations. Bids shall be accepted from only approved or pre-approved USDA commodity processors as determined by the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1909. Care and Storage of Commodities

A. The SFA is responsible for USDA commodities after taking possession of them. Possession includes transfers within a warehouse from the State account to the account of the SFA. Each SFA must take prudent and reasonable care of USDA commodities as follows:

Receiving Commodities

a. Each delivery of food must be checked for possible shortages and damage before the foods are accepted. The delivery date must be recorded on all commodity items. Refrigerated products must be examined to ensure that the temperature of the product is adequate and that they are in good condition.

b. Canned foods must be examined to determine whether there are any damaged, disfigured, or discolored cases or cans, which might indicate spoilage or deterioration.

c. Foods subject to insect infestation must be thoroughly inspected.

d. Food found to be out of condition must be separated from other food. The SFA must

i. indicate on the receiving document the status of the out-of-condition food;

ii. contact the local sanitarian to inspect and determine the disposition of the food; and

iii. submit a Claim Determination Form to the Food Distribution Division to report the loss of USDA commodities. Any shortages found during the delivery check should be noted on the receiving documents. The receiving documents must be signed by the driver to confirm the differences due to shortages or out-of-condition foods.

2. Inventory Requirements

a. A perpetual inventory record must be maintained at the site for all foods in stock.

b. A physical inventory of all USDA commodities on hand must be taken on the last working day of the month and submitted to LDAF by the 10th of each month.

c. Food should be ordered in quantities that can be properly stored and utilized without waste. An inventory of no more than a six-month supply of commodities should be maintained except in unusual circumstances.

3. Insect and Rodent Control

a. Adequate facilities for the proper storage of USDA commodities must be provided.

b. USDA commodities must be protected from insect and rodent infestation. There must be no external openings in the structure of the buildings in which foods are stored that would allow rodent and insect infestation.

4. Cooler/Freezer Checks

a. Cooler and freezer temperatures must be checked at least every other day, even during vacation and holiday periods. The only allowable exception is when it is not possible to monitor on weekends, in which case temperature checks should be made late Friday afternoon and early Monday morning. Automated alarm systems may be used if they produce written records of temperatures and dates upon request.

b. When automated alarm systems are not used, a log containing the following information must be maintained:

- i. the exact date of the check;
- ii. the exact time of the check;
- iii. the recorded temperature; and
- iv. the full original signature and title of the person conducting the check.

5. Theft Control

a. Facilities used to store USDA commodities must be secure. Freezers/coolers and other storage areas should be locked separately.

6. Losses of USDA Commodities including Commodity Processed Items

a. All losses of USDA commodities must be reported to the Food Distribution Division on a Claim Determination Form by the 25th of the month following the month of the loss.

b. If the loss is a result of theft, the local police must investigate and a copy of the police report must accompany the Claim Determination Form.

c. If the loss is due to infestation, spoilage or damage, the local health unit should be contacted for inspection of the commodity and a copy of the sanitarian's report should be attached to the Claim Determination Form.

d. Losses involving refrigeration malfunctions must be accompanied by the temperature log and repair or service bill/invoice or other documentation that proves no negligence was involved.

e. If it is determined that the loss is due to negligence by the school or that the loss has not been properly documented, the sponsoring agency will be held liable for the loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§1911. Questions

A. Questions concerning commodities can be answered by writing the Louisiana Department of Agriculture and Forestry; P.O. Box 3481; Baton Rouge, Louisiana 70821-3481; or calling (225) 922-1255, or by visiting their web site: www.ldaf.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

Chapter 21. Sanitation

§2101. Purpose

A. The following are guidelines to aid in the purchasing, receiving, storing, preparing, cooking, holding, serving, cooling and reheating of safe food for use in the Child Nutrition Programs. All school food service programs shall comply with the standards as outlined in the Louisiana Sanitary Code. A copy of the Code can be obtained by writing to the following: Sanitarian Services; 325 Loyola Avenue, Room 210; Post Office Box 00030; New Orleans, Louisiana 70100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2103. Purchasing

A. Obtaining wholesome, safe foods to meet the menu requirements is the goal of purchasing. Vendors play an important part of this step. Therefore, suppliers must meet Federal and State health standards. Also delivery trucks should have adequate freezer units and refrigeration units. In addition, food safety standards should be a part of the purchase specification agreements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2105. Receiving

A. The receiving area should be clean, well lit, and pest-free.

B. Orders should be inspected immediately for dented/damaged supplies and for expiration dates.

C. Frozen foods shall be inspected for signs of thawing and refreezing.

D. Delivery vehicles should be checked for signs of contamination, such as dirt and melted ice as well as infestation by pests.

E. Thermometers shall be used to measure temperatures of refrigerated and frozen foods.

F. Acceptable goods should be logged in upon delivery.

G. Clean carts should be used for transporting goods.

H. All items should be marked for storage with the date of arrival.

I. Staples, nails, and other fasteners should be removed before goods are unpacked.

J. Items should be moved to storage quickly. They shall not be left on the dock or in hallways.

K. Unacceptable goods shall be rejected.

L. Home-canned foods should never be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2107. Storing

- A. The First In, First Out (FIFO) method shall be used.
- B. All items shall be dated upon receipt.
- C. All leftovers shall be dated when stored after preparation.
- D. Temperatures in freezers, refrigerators, and milk coolers shall be recorded regularly. It is recommended that temperatures be measured and recorded daily. However, at minimum, temperatures must be obtained and recorded every other day including upon the opening of the kitchen Monday morning and upon the closing of the kitchen on Friday afternoon. Temperatures must be monitored and recorded during holidays and summer breaks.
- E. Refrigerated temperatures shall be below 41° F. Freezer temperatures shall be 0° F or lower.
- F. Unauthorized persons should not be admitted to the storage area.
- G. All spills and leaks should be cleaned up and empty packaging material shall be removed immediately.
- H. Cooked and ready-to-eat foods shall be covered and stored above raw foods to avoid cross-contamination.
- I. The shelves in refrigerated storage shall never be lined.
- J. Thawed food shall never be refrozen until it has been thoroughly cooked.
- K. Dried fruits and vegetables, cereals, sugar, flour, and rice shall be kept dry.
- L. Dry foods should be stored at least six inches off the floor and out of sunlight.
- M. Dry storage temperature shall be between 50° to 70° F.
- N. Dry storage must be well-ventilated and pest-free.
- O. Cleaning supplies and chemicals shall be stored as follows:
 1. in locked rooms or cabinets away from food preparation and storage areas;
 2. in original containers; empty chemical containers shall never be used to store food; chemicals shall never be stored in food containers; and
 3. near material safety data sheets (MSDS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2109. Preparing

- A. Food should be prevented from spending more than four hours in the temperature danger zone of 41° to 140° F. This period includes the time spent in receiving, storing, preparing, cooking, holding, serving, cooling, and reheating.
- B. Food should be thawed by these four methods only:
 1. in a refrigerator at a temperature not to exceed 41° F; raw foods shall be stored on the lowest shelf to prevent them from dripping or splashing on other foods;
 2. under running drinkable water at a temperature of 70° F or lower; the product should be thawed within two hours; this method should not be used for turkeys and large cuts of meat;
 3. as part of the cooking process;
 4. in a microwave; this method shall be used only when the food will be transferred immediately to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking

process takes place in the microwave. (This method is not effective on large items.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2111. Cooking

- A. An internal temperature of 165° F-170° F for foods to be held for serving shall be reached.
- B. The internal temperature in the thickest part of the food item without touching the bone should be measured.
- C. Overloading cooking surfaces and ovens should be avoided, as the unit's temperature may drop or foods may spill onto each other.
- D. The temperature of cooking equipment should be allowed to return to the required temperatures between batches.
- E. The cooking process should never be interrupted.
- F. Cutting boards, knives, and other food contact surfaces shall be washed, rinsed, and sanitized after each contact with a potentially hazardous food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2113. Holding

- A. Hot and cold food should have the temperature checked every two hours and recorded in a log. The temperature should be less than 41° F for a cold item and greater than 140° F for a hot item.
- B. Warmers, steam tables or other hot-holding equipment should never be used to cook or reheat food. This equipment should be used only to keep food hot.
- C. Foods should be stirred at regular intervals to ensure even heating.
- D. Fresh food should never be added to a serving pan containing foods that have already been out for service.
- E. Any food held in the "temperature danger zone" for more than four hours should be discarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2115. Serving

- A. For hot food a minimum temperature of 140° F shall be maintained during the service period. For cold food, the temperature shall not exceed 41° F during the service period.
- B. The food contact areas of cups, glasses, plates, and tableware shall not be touched once cleaned for service.
- C. Hands shall be washed for at least 20 seconds with soap and warm water before serving food.
- D. Plastic or metal tongs or scoops should be used to obtain ice, as glass may break.
- E. Gloves shall be discarded whenever they touch an unsanitary surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2117. Cooling

- A. Foods must be cooled to 41° F or lower in fewer than four hours total after cooking or hot holding.

B. Shallow pans should be used to cool food. Thick foods - such as chili, stew, and jambalaya - should be placed in pans with a product depth of no more than two inches deep. Thinner liquids - such as broth and soup - may be placed in pans with a product depth of no more than three inches deep.

C. Foods should be labeled with the date and time they were prepared.

D. Pans should be spaced in the cooler to allow for adequate air circulation and to hasten cooling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2119. Reheating

A. Previously cooked food should be reheated to an internal temperature of at least 165° F as soon as possible, not to exceed two hours.

B. Food should be reheated only once.

C. A leftover batch of food should never be mixed with a fresh batch of food.

D. Questionable food should never be served. (If in doubt, throw it out.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2121. Use of Food Waste

A. The Louisiana Sanitary Code prohibits the use of food waste, either cooked or raw, as feed for swine. If a SFA or school allows any individual/agency to dispose of food waste, a statement indicating its use must be on file at the school site. This statement must be signed by the individual/agency and must indicate that the food waste will not be fed to swine before anyone is allowed to remove the food waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2123. Sample Plates

A. A sample plate of all foods served, with the exception of prepackaged items, shall be covered and retained for at least 48 hours at each school site, including the satellite school.

B. The sample plate shall be kept refrigerated at 41° F or below and shall not be frozen. If there are no means of refrigeration at the site of service, the sample plate must be retained at the central kitchen. If there is refrigeration at the satellite site, the sample plate must be refrigerated at that site.

C. The sample plate shall be taken before meal service begins.

D. Each sample shall be taken with a different utensil that has been cleaned and sanitized.

E. The recommended size of the sample(s) is ½ cup (200gm).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2125. Hazard Analysis Critical Control Point (HACCP)

A. HACCP provides a system for monitoring potentially hazardous foods. Hazards may include micro-organisms, chemicals, and physical objects. A critical control point (CCP) is an action in which a preventative or control measure can be taken to eliminate a hazard, prevent a hazard, or to lessen the risk that a hazard will occur.

B. A written HACCP plan is recommended for all recipes involving potentially hazardous food. The HACCP plan should be developed and written by an individual who has successfully completed training in the application of HACCP principles. SFAs operating a warehouse that accepts delivery for later distribution to individual schools or that is involved in interstate commerce should develop a HACCP plan for all hazardous food.

C. Although a written HACCP plan is recommended for all recipes involving potentially hazardous food, according to Federal Regulation 21 CFR, Part 123, it is mandatory that all food service programs with central warehouses develop and implement a HACCP plan for seafood or seafood products.

D. The seven steps to develop a HACCP plan are listed below.

1. Assessing Hazards

a. Identification of potentially hazardous foods: menus and recipes shall be reviewed, as hazardous food may be served alone or as an ingredient in a recipe.

b. Flow of food: the flow of food is the path food travels in the school or SFA (receiving, storing, preparing, cooking, holding, serving cooling, reheating).

c. Identification of hazards: what hazards can occur during the flow of food should be foreseen.

d. Estimation of risks: several factors can increase the chance of foodborne illnesses; therefore, the following should be studied: the type of customers being served, as children and the elderly are more susceptible to foodborne illnesses; the reputation of suppliers; the use of proper equipment for preparing and serving food; and the proper training of employees on food safety.

2. Identifying CCPs

a. CCPs necessary to keep each recipe safe should be identified. These points should be considered during receiving, cooking, holding, chilling and/or reheating.

3. Setting up procedures and standards for CCPs

a. The standards and procedures include times, temperatures, or other requirements that must be met to keep food safe. Each standard should be

i. measurable;

ii. based on facts from research data, vendors' advice, food regulations and/or experience;

iii. correct for the recipe when taking into consideration room temperature, number of employees, and amount to prepare; and

iv. specific

b. Standards to prevent contamination at other points in the recipe and the flow of food should be documented.

4. Monitoring CCPs

a. This process is a check to see whether the standards that were developed are being met.

5. Taking corrective action

a. When a standard is not being met for a CCP, corrective action should be taken immediately. Such corrective action may be continuing to heat a food item if the end cooking temperature has not be reached or discarding a food item.

6. Setting up a record-keeping system

a. Records should be easy and simple for employees to use. Such records may include blank forms for temperatures hung on equipment; keeping recipes near work areas so employees can use them quickly; or notebooks so employees can write the corrective action(s).

7. Verifying that the system is working

a. After the written system has been developed, the flow of food should be followed to confirm that the system is correct. The following processes included in the system should be verified:

- i. procedures have been listed in order;
- ii. all hazards have been identified and addressed;
- iii. CCPs have been selected;
- iv. standards have been established;
- v. monitoring procedures and schedules have been selected;
- vi. corrective actions have been developed;
- vii. procedures and forms for recording information have been established;
- viii. procedures to verify that monitoring is conducted properly have been established;
- ix. any flaws or omissions in procedures have been noted;
- x. monitoring equipment such as thermometers has been calibrated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2127. General Rules

A. The layout of the kitchen must not cause or allow food to be contaminated during preparation.

B. Good sanitation techniques to avoid pests shall be followed.

C. To avoid health and safety hazards, only authorized school food service personnel shall be allowed in the food preparation and serving areas.

D. All foods should be kept covered while in the refrigerator.

E. When food is sent to another location, the temperature of each food item must be taken and recorded before its leaving the central kitchen and upon its arrival at the satellite school. When transporting food to a satellite school, the food must be protected from contamination. The temperature shall

remain less than 41° F for a cold item and greater than 140° F for a hot item.

F. The re-service of unopened milk is prohibited. Milk served to children or adults at breakfast, lunch, snack or as an extra sales item cannot be used again as part of another meal. Milk returned from a student cannot be used in cooking.

G. Handwashing facilities shall be available to school food service employees. Hands must be washed with warm water and liquid soap when reporting to work and after the following: handling raw food; touching their hair, face, or body; sneezing or coughing; smoking and chewing tobacco or gum; eating or drinking; cleaning; taking out the garbage; or touching anything that may contaminate their hands.

H. Plastic gloves are recommended; however, proper handwashing techniques must be followed when handling food. (See §2115C.) If gloves are used, they should be used for one task only and then discarded. Gloves must be treated as single use utensils.

I. Uniforms, aprons or smocks, hair restraints, hose or socks, and low-heeled enclosed shoes that provide adequate protection must be worn by all school food service employees.

J. Fingernail polish and artificial nails are prohibited.

K. Jewelry is restricted to plain wedding bands, stud earrings, and non-dangling watches.

L. Coats, shoes, purses, and other wearing apparel of adult and student school food service personnel should be stored in a closet or locker, not in the kitchen, storeroom, or dining area.

M. Employees with infected cuts or burns shall not prepare food or handle equipment that will come in contact with food. If these employees remain on duty, their infected areas must be properly covered.

N. Handwashing before mealtime shall be available to all students and adults at school. Paper towels and liquid soap are needed.

O. Tables shall be washed and sanitized before and after meal service.

P. An appropriate accurate thermometer shall be kept in the refrigerator and freezer at all times.

Q. All surfaces, including walls, should have washable surfaces.

R. Protected covering over lights is needed.

S. Waste receptacles need covers in the kitchen and in the bathrooms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2129. Keeping Food Safe During a Power Outage

A. As a general rule, if the food has remained in the refrigerator/freezer and the power has been out fewer than two hours, all foods will be safe.

1. Refrigerated Foods:

Food	Held above 41° F for over 2 hours
Meat, Poultry, Seafood	
Fresh or leftover meat, poultry, fish, or seafood	Discard
Thawing meat or poultry	Discard
Meat, tuna, shrimp, chicken or egg salad	Discard

Food	Held above 41° F for over 2 hours
Gravy, stuffing	Discard
Lunchmeats, hot dogs, bacon, sausage, dried beef	Discard
Pizza – with any topping	Discard
Canned hams labeled “Keep Refrigerated”	Discard
Canned meat, opened	Discard
Cheese	
Soft Cheeses: blue/bleu, Roquefort, brie, Camembert, Colby, cottage, cream, Edam, Monterey, ricotta, mozzarella, Muenster, Neufchatel	Discard
Hard Cheeses: cheddar, Swiss, Parmesan, provolone, Romano	Safe
Processed Cheeses	Safe
Shredded Cheeses	Discard
Low-fat Cheeses	Discard
Grated Parmesan, Romano, or combination (in can or jar)	Safe
Dairy	
Milk, cream, sour cream, buttermilk, evaporated milk, yogurt	Discard
Butter, margarine	Safe
Baby formula, opened	Discard
Eggs	
Fresh eggs, hard-cooked in shell, egg dishes, egg products	Discard
Casseroles, soups, stews	Discard
Fruits	
Fresh fruits, cut	Discard
Fruit juices, opened	Discard
Canned fruits, opened	Discard
Fresh fruits, coconut, raisins, dried fruits, candied fruits, dates	Safe
Sauces, Spreads, Jams	
Opened mayonnaise, tartar sauce, horseradish	Discard if above 50° F for over 8 hours
Peanut butter	Safe
Jelly; relish; taco, barbecue and soy sauce; mustard; catsup; olives	Safe
White wine Worcestershire sauce	Discard
Fish Sauces (oyster sauce)	Discard
Hoisin sauce	Discard
Opened vinegar-based dressings	Safe
Opened creamy-based dressings	Discard
Spaghetti sauce, opened jar	Discard
Bread, Cakes, Cookies, Pasta	
Bread, rolls, cakes, muffins, quick breads	Safe
Refrigerator biscuits, rolls, cookie dough	Discard
Cooked pasta, spaghetti	Discard

Food	Held above 41° F for over 2 hours
Pasta salads with mayonnaise or vinaigrette	Discard
Fresh pasta	Discard
Cheesecake	Discard
Breakfast foods – waffles, pancakes, bagels	Safe
Pies, Pastry	
Pastries, cream filled	Discard
Pies – custard, cheese filled, or chiffon	Discard
Pies, fruit (without topping)	Safe
Vegetables	
Fresh mushrooms, herbs, spices	Safe
Greens, pre-cut, pre-washed, packaged	Discard
Vegetables, raw	Safe
Vegetables, cooked	Discard
Vegetable juice, opened	Discard
Baked potatoes	Discard
Commercial garlic in oil	Discard
Potato Salad	Discard

2. Frozen Foods

Food	Still contains ice crystals and feels as cold as if refrigerated	Thawed. Held above 41° F for over 2 hours
Meat, Poultry, Seafood		
Beef, veal, lamb, pork, and ground meats	Refreeze	Discard
Poultry and ground poultry	Refreeze	Discard
Variety meats (liver, kidney, heart, chitterlings)	Refreeze	Discard
Casseroles, stews, soups	Refreeze	Discard
Fish, shellfish, breaded seafood products	Refreeze. However, there will be some texture and flavor loss.	Discard
Dairy		
Milk	Refreeze. May lose some texture.	Discard
Eggs (out of shell) and egg products	Refreeze	Discard
Ice cream, frozen yogurt	Discard	Discard
Cheese (soft and semi-soft)	Refreeze. May lose some texture	Discard
Hard cheeses	Refreeze	Refreeze
Shredded cheeses	Refreeze	Discard
Casseroles containing milk, cream, eggs, soft cheeses	Refreeze	Discard
Cheesecake	Refreeze	Discard
Fruits		
Juices	Refreeze	Refreeze. Discard if mold, yeasty smell or sliminess develops
Commercially packaged	Refreeze. Will change in texture and flavor.	Refreeze. Discard if mold, yeasty smell or sliminess develops.
Vegetables		
Juices	Refreeze	Discard after held above 41° F for 6 hours.
Commercially packaged or blanched	Refreeze. May suffer texture and flavor loss.	Discard after held above 41° F for 6 hours.
Breads, Pastries		
Breads, rolls, muffins, cakes (without custard fillings)	Refreeze	Refreeze
Cakes, pies, pastries with custard or cheese filling	Refreeze	Discard

Food	Still contains ice crystals and feels as cold as if refrigerated	Thawed. Held above 41° F for over 2 hours
Pie crusts, commercial and homemade bread dough	Refreeze. Some quality loss may occur.	Refreeze. Quality loss is considerable.
Other		??
Casseroles – pasta, rice based	Refreeze	Discard
Flour, cornmeal, nuts	Refreeze	Refreeze
Breakfast items – waffles, pancakes, bagels	Refreeze	Refreeze
Frozen meal, entrée, specialty items (pizza, sausage and biscuit, meat pie, convenience foods)	Refreeze	Discard

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 – 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

Chapter 23. Civil Rights - Handling Complaints

§2301. Responsibilities of the SFA

A. It is the responsibility of the SFA to assure that CNP benefits are made available and provided to all eligible individuals without discrimination. Federal (USDA) and State regulations outline the following responsibilities.

1. All forms of communication and printed program materials information must include the following:

a. the statement, “In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.”

b. the address indicating where a complaint may be filed:

USDA, Director, Office of Civil Rights;
Room 326-W, Whitten Building;
1400 Independence Avenue SW;
Washington, DC 20250-9410.

2. Parents or guardians of children, as well as local minority and grassroots organizations, must be informed of the availability of program benefits and services, the nondiscrimination policy, and all significant changes in existing requirements that pertain to program eligibility and benefits. This dissemination of the information may be accomplished through a the news release, letters to parents, the income scale, and the application form.

3. The nondiscrimination poster, which must be displayed in a prominent place in each school, must be visible to all. (Refer to §2309 B.)

4. Information about program requirements and the procedures for filing a complaint must be made available to the public and to participants, upon request, and in foreign languages as needed.

5. "In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

6. The SFA must process the complaint immediately upon receipt and must also notify the State Agency of the complaint.

7. The SFA may develop a complaint form, but the use of the form shall not be a prerequisite for the acceptance of the complaint. The prototype complaint form found in this chapter (§2309.A.) may be used.

8. The SFA is required to maintain on file the actual number of students applying for free and reduced price meals, for three years after submission of the final claim for reimbursement for the fiscal year to which they pertain. If any audit findings have not been resolved, the records shall be maintained as long as required until the audit is closed.

B. Compliance with civil rights regulations, as well as with all other program regulations, will be verified during on-site administrative reviews, audits, or other Federal or State monitoring visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2303. Handling Complaints

A. Systems must accept and process any written or oral complaint, even anonymous complaints, alleging discrimination on the basis of race, color, national origin, sex, age, or disability immediately upon receipt.

1. School systems must notify the State Agency of the complaint.

2. The school system may develop a complaint form, but the use of the form shall not be a prerequisite for the acceptance of a complaint.

B. Any person alleging discrimination on the basis of race, color, national origin, sex, age, or disability has a right to file a complaint within 180 days of the alleged discriminatory action. If the complaint is made orally, in person, or by telephone, or if the complainant does not choose to make the complaint in writing, the person receiving the complaint shall document the elements of the complaint. Every effort should be made to have the complainant provide the following information:

1. the specific location and name of the entity delivering the program service or benefit;

2. the nature of the incident(s) or action(s) that led the complainant to feel discrimination was a factor;

3. the basis on which the complainant feels discrimination exists such as, race, color, national origin, age, sex, or disability;

4. the names, titles, and addresses of persons who may have knowledge of the discriminatory action(s);

5. the date(s) during which the alleged discriminatory action occurred or, if continuing, the duration of such actions;

6. the name, address, and the telephone number or other means of contacting the complainant. Anonymous complaints must be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:

§2305. Nondiscrimination and Confidentiality

A. There must not be any discrimination against students receiving free and reduced price meal benefits. The names of students must not be published, posted or announced in any manner or used for any purpose other than determining and verifying eligibility for free and reduced price meals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2307. Confidentiality and Disclosure of Eligibility Information

A. The names of students and their meal eligibility status for meal benefits shall be kept confidential; however, it is acceptable for authorized individuals to disclose information under the following guidelines.

1. The Healthy Meals for Healthy Americans Act of 1994, P.L. 103-448, amended Section 9 (b)(C) of the National School Lunch Act (42 U.S.C. 1751 (b)(2)(C)) allows, without consent, limited disclosure of information about free and reduced price meal eligibility. Disclosure limitations apply to all the Child Nutrition Programs. The Statute specifies a fine of not more than \$1000 or imprisonment of not more than 1 year, or both, for unauthorized disclosure of free and reduced price meal eligibility information.

2. The USDA has authorized determining agencies (the State Agency, school food authority, schools including private schools, charter schools, child care institutions or Summer Food Service Program sponsors) to disclose free and reduced meal eligibility information to the extent authorized in the statute. Disclosure of eligibility information about participants beyond that authorized by the statute is permitted only with consent. The entity receiving the information from the determining agency, termed the receiving entity, may use the information for only the purpose authorized and may not share the information further. Providing aggregate information that does not identify individuals continues to be permitted without consent.

3. Determining agencies may disclose, without consent, participants' names and eligibility status (whether they are eligible for free meals or reduced price meals) to persons directly connected with the administration or enforcement of the following programs:

a. federal education programs, such as Title I and the National Assessment of Educational Progress;

b. state health or state education programs, provided the programs are administered by a state agency or a local education agency; Representatives of state or local agencies evaluating the results and compliance with student assessment programs would be covered only to the extent

that the assessment program was established at the state, not local level;

c. federal, state, or local means-tested nutrition programs with eligibility standards comparable to the National School Lunch Program (i.e., food assistance programs to households with income at or below 185 percent of the federal poverty level, such as the Food Stamp Program or a state or local nutrition program); and

d. at the discretion of the local SFA, the eligibility status of prospective students enrolled in a Charter School approved by the SBESE may be disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2309. Waiver of Confidentiality

A. The USDA has ruled that a SFA may provide the eligibility status of students to another agency or program when a household waives its confidentiality. The SFA must ensure that each household's waiver

1. clearly informs the households of the waiver's purpose;

2. authorizes release of free and reduced price eligibility information;

3. identifies who will use the information; and

4. is signed by a parent or guardian; it is not the responsibility of the SFA to verify the authenticity of the signature, only to determine that a parent or guardian signs it.

B. The SFA is advised to develop written policies and guidelines before taking any action. Considerations should include the following:

1. the SFA's definitions of agency or program;

2. the agency's/program's method to protect against misuse of the information;

3. the name of the SFA employee who will administer the process and the

documentation that will be maintained by the SFA;

4. whether or not the SFA should have a written agreement with the agency/program, and the terms and conditions of that agreement; and

5. information stating that the eligibility of Food Stamps based on Directly Certified student eligibility should not be provided to other agency's/programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2311. Appendix

A. Prototype Discrimination Complaint Form

B. Sample: "...And Justice For All" Poster

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

Appendix A Prototype Discrimination Complaint Form

Discrimination Complaint Form

Your Name

Your Address

Your Telephone Number ()

List other ways to contact you

Name and address of person(s) or organizations against whom you are filing a complaint

Tell what incidents happened that made you feel you had been discriminated against, the dates they occurred, or if continuing, the duration of such actions.

List the names, titles and addresses of persons who may have knowledge of the above-described incidents.

Name Title Address

- a.
b.
c.
d.

State on what basis you feel discrimination exists (race, color, national origin, sex, age or disability).

All complaints, written or oral, shall be accepted by the SFA and forwarded to: USDA, Director; Office of Civil Rights; Room 326-W, Whitten Building; 1400 Independence Avenue, SW; Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). The USDA is an equal opportunity provider and employer.

Name of individual receiving complaint:

Date and time complaint received:

Appendix B Sample "...AND JUSTICE FOR ALL"

...AND JUSTICE FOR ALL

In accordance with Federal and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA; Director, Office of Civil Rights; Room 326-W, Whitten Building; 1400 Independence Avenue, SW; Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

Secretary of Agriculture

Chapter 25. Ethics

§2501. General

A. The School Food Authorities (SFAs) must adhere to the Louisiana Code of Governmental Ethics. If any portion of the chapter is in conflict with or does not address an issue covered by the Code of Governmental Ethics, the Code of Governmental Ethics will control. For additional information, please contact the Louisiana Board of Ethics; 8401 United Plaza Blvd., Suite 200; Baton Rouge, LA 70809-7017. Telephone: (225) 922-1400 or toll free 1-800-842-6630. Website: www.ethics.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2503. Fraud Statement

A. "Whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under the National School Lunch Program and/or School

Breakfast Program whether received directly or indirectly, shall if such funds, assets or property are of value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than 5 years or both; or if such funds, assets or property are of value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both. Whoever receives, conceals or retains to his use or gain, funds, assets or property provided under the National School Lunch Program and School Breakfast Program, whether received directly or indirectly, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen or obtained by fraud, shall be subject to the same penalties. (7CFR245.12, Jan. 1, 1999) "

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2505. Gifts

A. School Food Authorities shall adhere to the Louisiana Code of Governmental Ethics.

B. No employee shall solicit or accept, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person who has or is seeking a contractual, business, or financial relationship with the SFA. There is no monetary restriction.

C. No employee shall solicit or accept, directly or indirectly, any thing of economic value as a gift from a person who is seeking for compensation to influence the passage or defeat of legislation by the SFA.

D. No employee shall receive anything of economic value, other than compensation and benefits from the SFA to which he is duly entitled, for the performance of the duties and responsibilities of his office or position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2507. Food Taken From Schools

A. Unauthorized removal of food is prohibited.

B. Food may be taken from the school for school-sponsored field trips.

C. Food may be purchased by school employees for lunch and/or breakfast and consumed on school board property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2509. Leftover Food

A. SFAs and school programs may receive inquiries from nonprofit agencies (and the general public) concerning the donation of extra foods prepared by the National School Lunch and Breakfast Programs. Schools may claim reimbursement for only one lunch and breakfast served per child per day, and schools are expected to plan and prepare sufficient amounts of food to achieve this goal. However, when the food actually prepared exceeds the amount needed for the reimbursable meal service, leftover foods may be donated to appropriate nonprofit institutions, such as soup kitchens or homeless shelters, provided that this practice is not prohibited by local laws or regulations and provided that all the following conditions are met.

1. Participation and menu records demonstrate that overproduction is not intentional.

2. The leftover foods could not be used in the food service program, and would otherwise be discarded.

3. State and local health codes/standards are followed; and

4. A written agreement on file between the SFA and the nonprofit organization includes, at a minimum, the following provisions: term of the agreement; duties of the school system; duties of the contractor; nondiscrimination statement; a statement that the contractor is not an officer, employee, or agent of the school system; liability; hold harmless and indemnification clause; and certification of liability insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2511. Purchasing

A. The school employee may not participate directly or indirectly in procurement when the employee is knowledgeable of the following information.

1. The employee or any member of the employee's immediate family has a financial interest in the purchase.

2. The employee or any member of the employee's immediate family has a financial interest in the business or organization that is the vendor.

3. Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the purchase.

B. If a school district board member or other official has a financial interest in the purchase, that person shall abstain from discussion and decisions regarding the award of the bid. Also, the board member should disclose this financial interest by filing an affidavit with the school district.

C. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to Federal procurement regulations. Any change in the SFA's normal purchasing practices which results in the aggregate amount purchased becoming less than \$10,000 must be documented for review and audit purposes.

D. Once a bid has been accepted, and a vendor offers an item at a lower price than the bid price, the SFA is not free to obtain bids or quotations from anyone other than the vendor who has received the contract unless:

1. an amount has been specified in the bid;
2. that amount will still be purchased from the bidder;
and

3. the SFA wants to purchase an amount in addition to what was bid. Small purchase procedures or competitive sealed bids must be used in obtaining prices on additional merchandise. The SFA would also need to make a written explanation of why it needs to purchase the additional merchandise must and file the explanation with the bid or quotation information.

E. When a vendor offers an item not presently used at a special price below market value, all purchases must be based on specifications that clearly describe the item to be purchased. If the SFA has tried a new product and would like to purchase it, a clear description of the item must be written; and, depending on the amount to purchase, small

purchase procedures or competitive sealed bids must be used.

F. When a vendor offers incentives such as stamps, equipment, or other prizes, the prices paid for all purchases should be based solely on the bid or quotation offered by a responsible seller giving the lowest price meeting specifications. When "incentives" such as prizes, stamps, equipment are offered and accepted, the "incentive" must become the property of the school food service program and under no condition become the property of an individual. Special offers often mean higher prices, or lower quality, or both. Frequently, special prices are offered on old merchandise that the vendor wants to move. Promotional items or cash rebates received from vendors must be used for school food service purposes.

G. School food service employees cannot purchase items on bid for personal use.

H. Refer to "Chapter 17: Procurement Guidance" for further information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2513. Gratuities

A. School Food Authorities shall follow the Louisiana Code of Governmental Ethics as it relates to gratuities and gifts.

B. It is a breach of ethics for any person/firm to offer, give or agree to give any employee or former employee of a school district or for any employee or former employee of a school district to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore, pending before this government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2515. Kickbacks

A. The Louisiana Code for Governmental Ethics shall be followed by all School Food Authorities.

B. It is a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract of a school district or any person associated therewith, as an inducement for the award of a subcontract or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2517. Warning Statement of Criminal Provisions and Penalties

A. The National School Lunch Act (42 U.S.C. 1761 (o)) §13 (o) established the following statements.

1. “Whoever—in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the Program—knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the Program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

2. Whoever being a partner, officer, director, or managing agency connected in any capacity with any partnership association, corporation, business or organization, either public or private, that receives benefits under the Program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any benefits provided by this Program, or any money, funds, assets, or property derived from benefits provided by this Program, shall be fined not more than \$25,000 or imprisoned for not more than five years, or \$1,000 or imprisonment for not more than one year, or both.”

B. If two or more persons conspire or collude to accomplish any act described in CFR 210.26 and one or more of such persons do an act to effect the object of the conspiracy or collusion, each shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

Chapter 27. Summer Food Service Program

§2701. Purpose

A. The Summer Food Service Program (SFSP) was established to ensure that, during school vacation periods, children could continue to receive the same high quality meals that are provided during the school year under the National School Lunch and School Breakfast Programs. The program resulted from not only an increased awareness of the critical importance of proper nutrition to children, but also a belief that school vacations should not end the availability of nutritious meals for children. The SFSP operates primarily during the months of May to September, when schools in most areas are closed. It also provides meals during vacation breaks for schools operated on a continuous school calendar. The SFSP is available to all children without regard to race, color, national origin, sex, age, or disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2703. Sponsor

A. Qualifications

1. Organizations that may sponsor the SFSP are limited to the following:

- a. public and private nonprofit school food authorities (SFA), summer camps, migrant centers, and

colleges and universities that participate in the National Youth Sports Program (NYSP);

- b. private, nonprofit organizations that meet specific criteria defined in SFSP regulations; and

- c. local, parish, municipal, tribal, or State governmental units.

B. Responsibilities

1. The sponsor will be responsible for managing the site staff; responsibilities will include the hiring, conditions of employment, and termination of personnel. Another responsibility of the sponsor is exercising management control over SFSP operations at sites during the period of program participation. Private nonprofit organizations must have direct operational control over each site under their sponsorship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2705. Feeding Sites

A. Governmental sponsors and private nonprofit sponsors may use school facilities for operating feeding sites. SFAs are not obligated to allow other SFSP sponsors to use equipment or schools.

B. Description of Feeding Sites

Your Site is:	If:	Based on:
Open	At least half the children in the area are eligible for free and reduced-price school meals.	Area eligibility data from the local school or census block group
Enrolled	At least half the children enrolled in the program are eligible for free and reduced-price school meals.	Income eligibility statements describing the family’s size and income
Camp	It offers a regularly scheduled food service as part of a residential or day camp program.	An individual child’s eligibility for free and reduced-price meals
Migrant	It serves primarily children of migrant workers.	Appropriate certification from a migrant organization
NYSP	It is a college or university participating in the NYSP.	A child’s enrollment in NYSP

C. Open Feeding Sites

1. There are two primary methods that may be used to determine whether the area that will be served is eligible: use of school data or census tract data.

- a. School Data. Generally, sponsors will find it most helpful to contact their local school offices directly in order to obtain the relevant, current-year free and reduced-price data to document the need of the area they wish to serve. In most cases, current-year school data provide the most accurate representation of an area’s current economic circumstances.

- b. Census Tract Data. Sponsors may also document the area eligibility of their proposed sites on the basis of census tract data. However, census data should be used only when relevant, current-year information on free and reduced price eligibility in neighborhood schools is unavailable.

c. Sponsors of open sites are reimbursed for program meals served to all attending children.

D. Enrolled Sites

1. Enrolled sites serve only identified groups of children on a daily basis. Sponsors must document an enrolled site's eligibility based on an eligibility form submitted by the parent or guardian of each child enrolled at each site. Enrolled sites provide meals only to children who are enrolled in an activity program.

2. Sponsors of enrolled sites are reimbursed for program meals served to all enrolled children in attendance.

E. Residential and Nonresidential Camps

1. Residential summer camps and nonresidential day camps that offer a regularly scheduled food service as part of an organized camping program for enrolled children may participate. In addition, nonresidential day camps must offer a continuous schedule of organized cultural or recreational programs for enrolled children; they can participate as sites only under eligible sponsoring organizations. Sponsors must collect eligibility forms and make individual determinations for all enrollees, since the sponsor is reimbursed for SFSP meals served to only those children eligible for free or reduced price school meals.

2. Camp sponsors receive reimbursement for meals served only to campers who have been individually determined eligible for free or reduced price school meals. Three reimbursable meals per eligible individual may be claimed each day.

F. Migrant Sites

1. To confirm migrant status and to document a site's eligibility, sponsors must submit information obtained from a migrant organization that certifies that the site serves children of migrant workers. If the site also serves non-migrant children, the sponsor must certify that the site predominantly serves migrant children.

2. Sponsors of migrant sites are reimbursed for program meals served to all attending children. Three reimbursable meals may be claimed each day.

G. National Youth Sports Program Sites

1. NYSP sites may qualify for the program in one of two ways: by enrollment or by a child's area of residence. All children participating at a NYSP site may receive reimbursable meals if at least 50 percent of the children enrolled in the program reside in geographical areas where poor economic conditions exist, or if at least 50 percent are individually determined to meet income eligibility guidelines that were in effect on the preceding July 1.

2. Homeless feeding sites that serve primarily homeless children may participate regardless of their location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2707. Meal Requirements

A. Meals served must meet SFSP requirements and meal patterns. These requirements differ from those of the National School Lunch Program and School Breakfast Program.

B. A reimbursable lunch/supper includes the following:

1. one serving of milk;
2. two fruit/vegetable servings;
3. one enriched grain/bread serving; and

4. one meat/meat alternative serving.

C. A reimbursable breakfast includes the following:

1. one serving of milk;
2. one fruit/vegetable serving; and
3. one enriched grain/bread serving.

D. A reimbursable snack includes two of the following components with the exception that milk and juice cannot be served together:

1. one milk serving;
2. one fruit/vegetable serving;
3. one enriched grain/bread serving; and
4. one meat/meat alternative serving.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2709. Age Limitations

A. Children age 18 and under may receive meals through SFSP. Special permission must be granted by the State Agency to feed children below the age of one year. Persons over 18 years of age who are determined by the State to be mentally or physically handicapped, and who participate in a public or nonprofit private school program established for the mentally or physically disabled may also participate in the SFSP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2711. Hours of Operation

A. The sponsor must ensure the time restrictions described below.

1. There must be a three hour elapse between the beginning of one approved meal service (including snacks) and the beginning of another meal.

2. There must be a four hour elapse between lunch and supper when a migrant or day camp site serves lunch and supper, with no afternoon snack between the two meals.

3. Supper must begin before 7 p.m. (unless the administering agency grants a waiver) and, in all cases, must end by 8 p.m.

4. The serving period for lunch and supper should not exceed two hours.

5. The serving period for breakfast and snacks should not exceed one hour.

B. Residential camps are excluded from the above time restrictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2713. Bidding Procedures

A. A school or SFA may act as a Food Service Management Company for a SFSP sponsor; the school or SFA is exempt from registering with the State Agency. Governmental sponsors or private nonprofit sponsors must use their own bidding procedures for food and supplies unless the SFA has a contract with the sponsor as a Food Service Management Company. SFAs acting as SFSP sponsors or as official Food Service Management Companies for another sponsor may indicate on the specifications that the bidding may extend through the summer months while operating the SFSP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2715. Records

A. Records for the SFSP must be maintained separately from the National School Lunch Program and the School Breakfast Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2717. Extra Foods

A. Inventory that is leftover at the end of the school year may be donated to the SFSP. Additionally, inventory, that is leftover from the SFSP, may be donated to the school's Child Nutrition Program. Nonperishable items may be stored from year to year if there is adequate storage space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2719. Summer Food Service Program (SFSP) Appeals Procedures

A. The sponsor or food service management company has seven calendar days from the date on which the notice of action is received to request an appeal.

B. The appellant (sponsor or food service management company) may review all information upon which the action was based.

C. The appellant may refute the charges contained in the notice of action either in person or by filing written documentation with the appeals officer. To be considered, written documentation must be submitted by the appellant within seven days of submitting the appeal, must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by the State agency.

D. A hearing will be held by an appeals officer in addition to, or in lieu of, a review of written information submitted by the appellant ONLY IF THE APPELLANT SO SPECIFIES IN THE LETTER APPEALING THE ACTION. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the appeals officer, unless the appeals officer agrees to reschedule the hearing in accordance with §2719.F below. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the appeals officer.

E. If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing.

F. The hearing will be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with §2719.C and D.

G. The appeals officer is independent of the original decision-making process.

H. The appeals officer will make a determination based on information provided by the State agency and the appellant, and on Program regulations.

I. Within five working days after the appellant's hearing, or within five working days after receipt of written documentation if no hearing is held, the appeals officer will make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested.

J. The State agency's action will remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action.

K. The determination by the State appeals officer is the final administrative determination to be afforded to the appellant.

L. Appealable actions include: A denial of an application for participation; a denial of a sponsor's request for an advance payment; a denial of a sponsor's claim for reimbursement [except for late submission under 7 CFR 225.9(d)(5)]; a State agency's refusal to forward to the United States Department of Agriculture, Food and Nutrition Services (FNS) office an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim; a claim against a sponsor for remittance of a payment; the termination of the sponsor or a site; a denial of a sponsor's application for a site; a denial of a food service management company's application for registration; or the revocation of a food service management company's registration. Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under 7 CFR 225.9(d)(5). For more information refer to 7 CFR 225.13 Appeal procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2721. Information

A. For more information, refer to the USDA Summer Food Service Program for Children, 1999 Administrative Guidance for Sponsors or visit USDA's web site at www.usda.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

Chapter 29. Special Milk Program

§2901. Purpose

A. The Special Milk Program (SMP) is designed to encourage consumption of fluid milk by children in the United States who do not have access to the National School Lunch and Breakfast Programs. The program is administered by the Louisiana State Department of Education (LDOE) to eligible public and nonpublic schools and nonprofit child care institutions or agencies. Reimbursement funds are

provided by the United States Department of Agriculture (USDA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2903. Sponsors

A. Sponsorship of SMP is limited to school boards or governing bodies of nonpublic schools and nonprofit child care institutions. Sites that participate in the National School Lunch and Breakfast Programs, that serve children who attend split-session kindergarten and other pre-primary school programs and who do not have access to the School Lunch and Breakfast Programs, may participate. Sponsors, by agreement, accept full responsibility for the operation of the program in compliance with regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2905. Agreement and Application

A. A written agreement setting forth conditions of participation shall be entered into between the State Agency and the SFA. The application shall include the current SMP policy statement and other information required by the State Agency. The Sponsor shall maintain on file a copy of the Free Milk Policy Agreement and Free Milk Guidance Material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§2907. Conditions of Agreement

A. SFAs must ensure compliance with program regulations. In fulfilling its responsibilities, SFAs must agree

1. to participate in the SMP only if it does not participate in any other meal program authorized by the National School Lunch Act; the only exception would be for split-session kindergarten children and pre-primary children who do not have access to other meal programs;

2. to serve milk free of charge, at least once during each day of operation, to needy children and to make no discrimination against any needy child because of his inability to pay for the milk;

3. to comply with USDA regulations regarding nondiscrimination;

4. to claim reimbursement only for pasteurized fluid milk (unflavored or flavored whole milk, low-fat milk, skim milk, and cultured buttermilk), which meets State and local standards;

5. to submit claims for reimbursement in accordance with procedures established by the State Agency;

6. to maintain full and accurate records of its milk program, including, but not limited to, the number of half pints of milk served free to needy children, and to retain the records for a period of three years after the fiscal year to which they pertain;

7. to make all records pertaining to its milk program available to State or Federal agencies for review upon request; and

8. to provide adequate refrigerated storage or to make arrangements to serve the milk as soon as it is delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

Chapter 31. Child and Adult Care Food Program

§3101. Purpose

A. The Child and Adult Care Food Program (CACFP) is authorized under the National School Lunch Act (NSLA) and the Child Nutrition Act of 1966 and is administered by the Louisiana Department of Education, Division of Nutrition Assistance. The primary focus of the Program is to enable day care centers, outside-school-hour centers, at-risk after school sites and homeless programs to provide nutritious meals to the children and adults they serve, regardless of race, color, national origin, gender, age or disability. The CACFP serves children, infants through 18 yrs. old and disabled at any age, and the functionally or physically impaired adults, who participate in non-residential day care services, except for the homeless program. The State Agency currently administers CACFP to approximately 310 Institutions in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3103. Institutions

A. Criteria for Program participation/application approval:

1. financial viability, administrative capability and internal controls in place to ensure Program accountability;

2. Class A licensed facility or a current health/sanitation and fire inspection reports (At-risk Afterschool Snack and Homeless Programs ONLY);

3. a site pre-approval visit to determine whether the site(s) has the equipment and means to carry out the food service operations;

4. tax exempt status, as defined under the Internal Revenue Service Code of 1986 or receives compensation under Title XIX or XX of the Social Security Act and certifies that payments for participants constitute at least 25% of the enrolled eligible participants or licensed capacity, whichever is less, during the preceding month of the initial application.

B. Responsibilities

1. Comply with all regulations set forth in 7 CFR Part 226 of the Child and Adult Care Food Program regulations, and all other State and Federal laws, regulations, policies, instructions and requirements established for this Program.

2. Accept final administrative and financial responsibility for the total CACFP operations.

3. Provide services to all eligible participants without regard to race, color, national origin, gender, age or disability.

4. Provide adequate supervisory and operational personnel for management and monitoring of the program.

5. Establish procedures to collect and maintain all required program records.

6. Provide access to all records and accounts for review and/or audit by authorized representatives of USDA, State or Federal program managers or auditors during normal working hours to ascertain compliance and enforcement of Title VI.

C. State Agency Responsibilities

1. Comply with and meet all responsibilities and requirements set forth in 7 CFR Part 226 of the Child and Adult Care Food Program Regulations and all other State and Federal laws, regulations, policies, instructions and requirements established for this program.

2. Provide technical and supervisory assistance to facilitate effective program operations, to monitor progress toward achieving program goals, and to ensure compliance with the nondiscrimination regulations.

3. Provide training to Institutions at least three times per year.

4. Monitor and review Institution for compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3105. Meal Requirements

A. All meals served to eligible participants must meet USDA component/meal pattern and portion-size requirements. Meal types may include two meals and a snack, two snacks and a meal, three meals, or snack only depending upon the Program. There are no separate charges for meals. Institutions must also use four-week cycle menus to provide a variety of foods with adequate sources of vitamins C and A, as required. To improve the nutritional health of children over one year of age, schools may serve additional foods: for instance, an egg, cheese or meat item added at breakfast. Substitutions may be made to required components, if individual participants are unable, because of medical or other special dietary needs, to consume such foods. Substitutions because of medical needs shall be made only when supported by a statement from a recognized medical authority, which includes recommended alternate foods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3107. Reimbursements

A. The claim for reimbursement should be submitted to the State Agency by the tenth of the following month. Each institution participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in 7CFR Part 226. Reimbursements may not be claimed for meals served to participants who are not enrolled, for meals served to participants at any one time in excess of the authorized capacity, or for any meal served at a Title XIX or XX center during a month when less than 25 percent of enrolled participants or licensed capacity, whichever is less, were Title XIX or XX beneficiaries. Using the current reimbursement rates, payments are made to institutions based upon the number of meals served daily to participants determined as eligible for free, reduced or above meals. The current reimbursement rates are effective from July 1, 2000 to June 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3109. Required Records

A. Documentation of non-profit food service to ensure that all program reimbursement funds are used solely for the

conduct of the food service operation or to improve such food service operations, for the benefit of the enrolled participants must be maintained:

1. copies of all applications and supporting documents submitted to the State agency;

2. documentation of the enrollment of each participant, including information used to determine eligibility for free or reduced price meals;

3. daily records indicating the number of participants in attendance and the number of meals by type served to participants;

4. copies of all claims for reimbursement;

5. documentation of staff training, including date(s) and location(s); topics presented; and the names of participants;

6. receipts for all Program payments received from the State agency;

7. copies of menus, menu worksheets and any other food service records required by State agency; and

8. copies of invoices, receipts, or other records required to document administrative costs, operating costs and income to the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191 - 199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

Chapter 33. Disaster Feeding

§3301. Release of USDA Commodity Foods for Disaster Feeding: The Recipient Agency's Role in a Disaster

A. Disasters such as hurricanes, tornadoes, floods, and chemical spills may generate a need for congregate (mass) feeding. Any food donated by USDA to School Food Authorities (SFAs) can be used in disaster feeding. Other organizations having USDA commodities must cooperate fully and make these foods available to designated agencies involved in disaster feeding activities.

B. The American Red Cross is the primary disaster organization; but the USDA, directly and through SFAs, will provide foods to any recognized agency equipped to serve disaster victims. The Salvation Army, civic organizations, and others are able to provide food preparation for congregate service. USDA has no foods specifically designated for disaster feeding and must depend on foods in State warehouses and at the SFAs. Commodity foods are not always available in quantity to fill all needs, but they do provide a good supplement to those provided by the designated agency.

C. Prior to providing commodity foods to disaster organizations, SFAs are required to get prior approval from the Food Distribution Division. Upon contacting the Food Distribution Division, SFAs should give the following information to the extent possible:

1. a description of the major disaster or emergency situation;

2. the number of people requiring meals and the congregate meal service period;

3. the quantity and type of food needed for the congregate meal service;

4. the number and location of sites providing the congregate meal service.

D. It is necessary for the Food Distribution Division to report the above information to the USDA Southwest Regional Office within 24 hours. Prompt reporting will help with replacement of commodities used.

E. Accurate records must be kept of all USDA commodities provided or used for disaster feeding. Signed receipts must be kept for all USDA commodities transferred to eligible disaster feeding organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3303. Statement of Understanding Between the American School Food Service Association and the American National Red Cross with Respect to Emergency Feeding in Disaster

A. The American School Food Service Association (ASFSA) and the American National Red Cross desire to cooperate in meeting human needs growing out of natural disasters. To effect coordination that will ensure maximum cooperation and utilization of the resources and efforts of both organizations, the associations have prepared this statement of understanding. Its purpose is to define the fields of responsibility in which the ASFSA and the American Red Cross will cooperate and to serve as a guide for membership of both organizations.

B. Experience shows that it is frequently necessary for the Red Cross to use school buildings for shelters and for mass feeding in a community emergency. The kitchen, cafeteria facilities, and experienced food service staff provide a resource of vital importance in such an emergency.

C. The Red Cross recognizes that school buildings are the property of local school districts and that permission for use of these buildings must be obtained from local school officials.

D. The ASFSA has membership engaged in the supervision and management of the nation's school food service programs. The Red Cross recognizes that this membership has special and expert knowledge of mass feeding that is valuable in disasters. Personnel are trained and experienced in quantity food production, and have knowledge of state and local sanitary regulations.

E. The ASFSA recognizes that one of the primary responsibilities of the American Red Cross, as a quasi-governmental agency, is the relief of human suffering resulting from natural disasters. This responsibility has been placed upon the American Red Cross Act of Congress (36 U.S. Code Section 1 and following), assigning as one of its duties:

1. "to continue and carry on a system of national and international relief in time of peace and apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other great national calamities, and to devise and carry on measures for preventing the same."

2. This responsibility has also been recognized in Public Law 93-288, the Disaster Relief Act of 1974.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3305. Types of Assistance

A. Subject to the approval of local school officials, the American National Red Cross prefers the following type of personnel and facilities for disaster feeding:

participation in Red Cross division and chapter predisaster planning for emergency feeding;

utilization, with Board of Education approval, of school food service facilities as central feeding stations or as central food preparation stations for fixed or mobile feeding;

3. utilization of food and supply, inventories on hand, including USDA commodities;

4. participation of regular school food service personnel for supervision of the use of school lunch facilities;

5. participation of school food service personnel in the preparation and service of food on premises other than the school cafeteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3307. Responsibilities Assumed

A. The American Red Cross responsibilities will include the following activities:

1. assume financial responsibility for the cost of feeding persons in need as a result of disaster after appropriate clearance with an authorized Red Cross representative;

2. retain administrative control of all financial commitments made in connection with the utilization of school cafeteria facilities for Red Cross feeding;

3. provide additional food through the cooperation of USDA to augment other food supplies needed in the feeding program;

4. replace, upon request, foods provided by USDA as well as foods purchased by individual schools when such foods are utilized in authorized Red Cross disaster feeding programs;

5. provide identification for facilities being utilized with primary recognition of the School Lunch Program;

6. provide additional volunteers to assist school food service personnel throughout the disaster feeding operation as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3309. Disaster Relief Feeding Plan

A. The State recommends that a Disaster Relief Feeding Plan be developed and written by the CNP director along with other local Emergency Preparedness Organizations.

B. The disaster plan should be distributed to all schools and should include the following information:

1. names and emergency telephone numbers of suppliers, school officials, local government agencies, law enforcement, etc.;

2. organizational line chart indicating names and telephone numbers of emergency relief officials;

3. names and telephone numbers of contact people from the Red Cross, Salvation Army, or other agencies that will assist in managing shelters;

4. a list of buildings to be used as shelters with their addresses, telephone numbers; the order in which shelters

will be opened; the names/positions/telephone numbers of managing personnel; layout of the school indicating which areas may be used to place evacuees; electrical, water and gas shut-off; and emergency telephone procedures, keys, etc.;

5. emergency shut down procedures for SFS;
6. emergency procedures to secure school food service vehicles check as well as to locate refrigerated vendor trucks for a possible storage, if needed;
7. staffing assignment for schools to be used to prepare meals- include a morning and afternoon team;
8. identification cards for school food service staff who will work at shelters so they will have access to shelters, SFS office, and any restricted areas;
9. procedures the transportation department will implement to ensure delivery of food, supplies, and personnel to the shelters;
10. training program for personnel managing the shelters;
11. procedures for safeguarding food, supplies, and equipment against theft or misuse;
12. instructions for using USDA commodities;
13. a set of small equipment and supplies needed for shelters and SFS office;
14. procedures for delivery of food to shelters (include food handling, temperature control);
15. preplanned menus using USDA commodities and convenience foods normally in stock;
16. procedures for recording food, supplies and labor used at shelters and SFS office;
17. a map of evacuation routes;
18. emergency communications system (cell phones, radios, etc.);
19. procedures for cleaning school and disposing of spoiled items, etc. after disaster is over;
20. procedures for billing agencies for food and labor costs after the disaster is over.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3311. Emergency Shut Down Procedures

- A. The SFA and local cafeteria staff should, prior to closing for impending disaster,
1. develop menu substitutions with the central office to utilize as many frozen leftovers as possible;
 2. instruct managers not to thaw any foods for the remainder of the week's menu;
 3. use as much fresh produce as possible;
 4. secure garbage cans, brooms, mops and other items that may be stored outside of the building;
 5. move small equipment, cooking utensils, supplies, paper products, food items, etc., stored on lower shelves as high as possible in schools where rising water could be a problem;
 6. print a copy of an up-to-date small and large inventory if on computer; store the printed inventory in a safe place;
 7. print a copy of the students' lunch ID numbers and students' account balances, if on computer and store the copy in safe place;

8. disconnect and secure all computers and other office equipment; store computers/printers on highest possible shelf; cover with plastic;

9. store diskettes in a safe place such as principal's office, top shelf in storeroom, manager's home or child nutrition office;
10. mail school and central office back-up diskettes to software company (if they are not in the hurricane area);
11. create a list and order the food, supplies, and other items needed;
12. conduct training on shelter policies and procedures to all employees interested in working at the shelter;
13. inspect prospective shelter site making sure everything is secure; food, milk, paper plates, disposable flatware and other paper products should be in stock;
14. secure a generator for refrigerated centralized warehouse, if necessary;
15. request all employees to listen to news media for details about school closures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3313. Procedures To Follow During Operation of Shelter

A. In the event of an emergency, the designated disaster organization operating in the parish must contact the SFA if assistance is needed. The designated disaster organization and the SFA should determine which school locations would be open to provide relief. The size of kitchen and cafeteria, amount of inventory on hand, size and condition of equipment, and available staff should be considered in determining locations.

B. After a school site has been selected, the following guidelines for the SFA are suggested.

1. Keep accurate records concerning the labor hours of employees, including breaks.
2. Plan meals consisting of a meat component, fruit and vegetable components, a bread component and a milk component if possible. However, if a meal that does not have all the components is served, the disaster organization shall reimburse or replace the food that was used.
3. Revise the menu to use up any perishable items.
4. Incorporate larger portions for adults .
5. Keep current day's menu and serving times posted outside the cafeteria entrance.
6. Lock storerooms, refrigerators, and freezers at all times to prevent theft.
7. Issue food and supplies one to two times per day.
8. Record all borrowed foods from other schools and complete transfer slips as time permits.
9. Keep accurate records of all counts, food and supply issues, etc. The Cost of Food Used Form could be used to document this information. The amount of food prepared and the number of individuals served per meal must be kept for reimbursement or food replacement from the disaster organization.
10. Satelliting food to a location increases the number served to 100 percent; if serving meals in the cafeteria, expect approximately 60 percent participation.
11. Request additional food items if the disaster extends over a long of period time. Contact the Louisiana Food Distribution Division at (225) 922-1255 if additional

USDA commodity items are needed. Contact neighboring parishes or vendors that already have bid awards for purchased items.

12. Prepare coffee for 15 to 20 hours per day.

13. Bag and freeze ice in pint bags for people who require refrigerated medication.

14. Keep sinks full of clean water between use in case the water service is disrupted. Fill the washing machine and sanitized trash cans with water

15. Place a microwave in the cafeteria for the convenience of those housed there.

16. Use paper towels or disposable wipes, not dishtowels.

17. Use disposable utensils to prevent permanent silverware theft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3315. Procedures to Follow after the Shelter Closes

A. Complete and submit the commodity forms to Food Distribution within 24 hours after site closure.

B. Complete the required reimbursement forms. Each organization has different forms; the forms may have changed from the previous year.

C. Calculate reimbursement monies for food, supplies, and labor used during the disaster.

D. Follow-up on all reimbursements.

E. When school resumes following a disaster, the LDOE may temporarily allow schools to serve, for reimbursement, lunches that do not meet the meal component/meal option requirements. Prior approval from the LDOE is required. Contact the Division of Nutrition Assistance, School Food Service Programs, Baton Rouge office at (225) 342-3720.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3317. Louisiana Office of Emergency Preparedness

A. The Louisiana Office of Emergency Preparedness is a State disaster organization that can be reached at 1-800-256-7036 or (225) 342-5470.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3319. Food Salvage at School Sites

A. Contact the local public health department for any questionable items.

B. In case of floods, destroy all foods that may have come into direct contact with flood-waters. Unless exposed to floodwaters (through seepage into freezer), solid frozen foods are usually safe. Intact (not dented or bulging) canned foods can be salvaged by removing labels and scrubbing the surfaces with hot soapy water. Rinse cans with clean water and soak in chorine solution for 90 seconds. Mark the can with its content name and expiration date.

C. In case of fire, all canned, refrigerated and frozen foods should be discarded depending on the severity of the fire, the affect of smoke, and toxic chemicals used to fight the fires. Smoke, toxic fumes, and intense heat can penetrate almost any packaging and can create off-odors in stored

foods. Any foods directly exposed to these toxic chemicals should be disposed of and the cookware decontaminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3321. Power Outages

A. Refer to Chapter 21: Sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

Chapter 35. Financial Management and Accounting For Child and Adult Care Food Program Family Day Care Homes (FDCH)

§3501. Purpose

A. Federal Child and Adult Care Food Program (CACFP) funds are provided to assist State agencies through grants and other means to initiate, maintain, and expand nonprofit food service programs for children or adult participants in nonresidential institutions that provide care. The CACFP home-based program is called the Family Day Care Home (FDCH) Program.

B. This chapter summarizes the most frequently referenced elements of the Federal regulations that govern the FDCH program financial management, and stipulates the State Agency's financial management policies. This chapter exists to assure that costs charged to nonprofit food service provided principally to enrolled participants; and where applicable, to assure that costs claimed for reimbursement under the CACFP are allowable, necessary, and reasonable for effective and efficient operation of the program; and to assist institutions in developing the accounting information needed to comply with the requirements of the CACFP.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3503. Authority

A. The CACFP is authorized by Section 17 of the National School Lunch Act, as amended. The Catalog of Federal Domestic Assistance Number for the CACFP is 10.558.

B. This chapter is not all-inclusive. Approved sponsors are required to comply with the following:

1. Administrative Requirements

a. United States Department of Agriculture (USDA) Code of Federal Regulations (CFR), Title 7, Part 226 Child and Adult Care Food Program (7 CFR Part 226);

b. Office of Management and Budget (OMB) Circular A-110 (10/8/99 Revision) Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;

c. USDA 7 CFR Part 3015 (after 8/14/00 Revision of Parts 3016 and 3019) – Uniform Federal Assistance Regulations;

d. USDA 7 CFR Part 3016 (8/14/00 Revision)—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

e. USDA 7 CFR Part 3019 (8/14/00 Revision)—Uniform Administrative Requirements for Grants and

Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations;

f. OMB Circular A-87 (8/29/97 Revision), Cost Principles for State and Local Governments;

g. 48 CFR Part 31 Contract Cost Principles and Procedures;

h. OMB Circular A-122 (6/1/98 Revision), Cost Principles for Nonprofit Organizations;

i. 34 CFR Part 85, Government-Wide Debarment and Suspension (Nonprocurement) and Executive Order 12549: Federally funded agencies shall not award assistance to applicants that are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs;

j. USDA 7 CFR Part 3017 – USDA regulations implementing Government-wide Debarment and Suspension (Nonprocurement);

k. 34 CFR Part 82, “New Restrictions on Lobbying”, (United States Code, Title 31, Section 1352);

l. USDA 7 CFR Part 3018, USDA regulations implementing New Restrictions on Lobbying;

m. USDA Financial Management Instructions 796-2, Rev. 2 (6/28/94Revision) – Financial Management – Child and Adult Care Food Programs;

n. Federal Administrative Regulations 31.205-46;

o. Louisiana State Travel Regulations;

p. Louisiana Family Day Care Home Memorandum Series;

q. Terms of the application/agreement with the State agency;

2. Audit requirements

a. Office of Management and Budget (OMB) Circular A-133 (6/24/97 Revision) Audits of States, Local Governments, and Non-Profit Organizations;

b. USDA 7 CFR Part 3052 (1/1/00 Revision) - Audits of States, Local Governments, and Non-Profit Organizations—USDA regulations implementing Circular A-133;

c. Louisiana Revised Statutes 24:513—State Audit Requirements.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3505. Sponsor Eligibility

A. Institutions that have received approval from the Louisiana Department of Education, Division of Nutrition Assistance, hereinafter referred to as "State Agency," to participate in the FDCH are hereinafter referred to as "sponsors." Eligibility requirements are as follows:

1. Institutions must be a public entity, a non-profit corporation, or have tax-exempt status under the Internal Revenue Code of 1986.

2. Institutions must not have been disqualified from participation in any other publicly-funded program for violating that program's requirements.

3. Institutions must be administratively capable of operating the FDCH Program.

4. Institutions must be financially viable.

a. Examples of criteria that will be used by the State Agency to determine financial viability are:

i. whether an institution has adequate resources to support program functions. Institutions must submit

documentation of an alternate source of institutional revenue to demonstrate financial viability.

ii. the institution must demonstrate the ability to pay the total budgeted salary(ies), benefits and travel as requested in the requested FDCH administrative budget.

5. Institutions must have internal controls in effect to ensure program accountability.

B. Sponsor Participation Approval. Approval for new sponsoring institutions or for expansion of existing sponsoring institutions will be granted only in targeted service areas of the state where children are not being served or where they do not have access to program benefits.

1. Potential Sponsors. For potential sponsors, applications for participation in the FDCH Program must include documentation that no currently approved sponsor is providing access to the FDCH Program in the requested service area.

2. Expansion of Service Area. In order for a State-approved sponsor to request expansion into an additional service area, the sponsor must submit documentation that no State-approved sponsor is providing access to the FDCH Program in the requested service area.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3507. Management Plan And Administrative Budget Approval

A. Management Plan. The State must approve the management plan, which is submitted by the institution in the form of the FDCH Application/Agreement. Such a plan shall include detailed information on the institution's administrative structure; the staff assigned to program management and monitoring; the administrative budget; and the procedures which will be used to administer the program in, and disburse payments to, the homes where the child care is provided. These homes are hereinafter called "providers." A provider operates under the jurisdiction of a sponsoring institution called a "sponsor." Each sponsor shall be required to incorporate the budget into its management plan.

1. Each of the current members of the sponsor's Board of Directors must sign a certification statement acknowledging their membership and their understanding of their specific duties, responsibilities, and liabilities as a member of the governing board. This certification statement is an integral part of the annual application/agreement.

2. The majority of the sponsor's Board of Directors may not be composed of institution employees, providers, and/or family members of employees/providers.

3. The President of the Board of Directors may not be a sponsor employee or a provider, and should not be a family member of a sponsor employee or provider.

B. Budget. The State Agency must approve the sponsor's administrative budget and limit allowable administrative costs claimed by each sponsor to the administrative costs approved in its annual budget.

1. Maximum. The administrative budget shall be based on no more than the maximum number of eligible homes plus 10 percent, times the administrative rate at the time of submission of the application/agreement to the State Agency.

2. Variance of Line Item Amounts. Sponsors may increase any budget line item by as much as 10 percent
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above the approved amount without State Agency approval of the increase. The 10 percent variance does not apply to the total budget amount. The total annual budget may not be increased in any amount without State Agency approval.

3. Budget Amendments. Budget amendments will be approved as early as the first of the month in which all complete and correct information is received by the State Agency. Budget amendments cannot be approved retroactively to a previous month.

a. Approved budgeted amounts must be calculated for the number of months an amendment was effective.

4. Personnel. The personnel page of the budget (Form DCH-102) is under the same restrictions as a line item of the total budget. An individual's salary may increase by no more than 10 percent. A new position may not be added without State Agency approval. Although personnel changes within an approved position may be made without State Agency approval, the name of the new staff member must be on file at the State Agency to update the sponsor's application/agreement and to authorize the person as an FDCH employee. All personnel changes within an approved position must be reported to the State Agency within the month in which they occur.

a. The salaries of all sponsor employees must be in line with the average salaries for comparable positions in other nonprofit agencies or government entities in the service area.

5. Travel. Travel costs must be included in the sponsor's budget in an amount that may be reasonably needed to provide monitoring and training of providers.

6. Reasonable Budget. The State Agency shall retain the authority to determine the limits of a reasonable budget, depending upon the size of the sponsor's FDCH program, employee duties and the economic conditions of the locale. Adjustments, revisions or justification shall be on file with the State Agency before approval of the budget.

7. Provider Cap. An initial cap shall be placed on the number of providers to be approved for new sponsoring institutions.

8. Administrative Cap. For sponsors already participating in the FDCH Program, the State Agency shall place a cap on the number of providers if the sponsor's staffing pattern and management plan do not reflect sufficient administrative capability to administer more homes. Additional providers shall be approved commensurate with the sponsor's capabilities.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3509. Sponsor Administrative Operations

A. Management Responsibilities. Sponsoring institutions must accept final administrative and financial responsibility for FDCH Program operations. Management and administrative duties and responsibilities of a sponsor shall not be contracted out. Management responsibilities must be performed by paid employees of the sponsoring institution.

1. Monitoring.

a. Monitoring duties shall not be contracted out, under any circumstances.

b. Volunteer staff may not monitor providers.

c. All providers must be successfully monitored at least three times each calendar year. A successful monitoring

visit occurs when meal services by the provider to enrolled non-resident children are observed.

d. Monitoring must be conducted within 15 minutes before or after scheduled meal service.

e. All meal types claimed by a provider must be successfully monitored by the sponsor within each calendar year.

f. The State Agency may require sponsors to conduct additional provider monitoring if a sponsor is determined to be deficient in its management operations.

B. Records and Reports. Sponsors of all Child Nutrition Programs under the administration of the Division of Nutrition Assistance shall submit to the State Agency any and all records and reports as required. Such records and reports shall be submitted within the timelines and in the manner specified by the State Agency.

1. Sponsors shall maintain on file all cancelled checks made on any program account.

C. Accounting. The following State Agency financial management policies must be adhered to:

1. Allocation of costs. Shared (joint) costs of a sponsor's operation that cannot be specifically identified as FDCH administrative costs or costs that benefit both allowable and unallowable FDCH activities shall be prorated on a consistent and rational basis, as described in a cost allocation plan.

a. The cost allocation plan shall be submitted with the application/agreement, if applicable, to the State Agency for approval.

b. All programs operated by the sponsor, regardless of the fund source, that share any costs with the FDCH Program shall be included in the sponsor's cost allocation plan. Shared costs must be allocated so that only the portion of the costs related to allowable FDCH Program activities are included in the sponsor's administrative budget and charged to FDCH funds.

c. All costs included in the cost allocation plan shall be supported by formal accounting records, which will substantiate the propriety of charges. It is the sponsor's responsibility to include all affected programs in the cost allocation plan and to maintain detailed documentation that supports the development and implementation of the plan.

2. Accrual of Administrative Expenses. Sponsors must not retain administrative funds in the FDCH bank account from month to month except to cover legitimate, unbilled accruals such as audit costs under engagement, or unpaid accruals such as payroll taxes. It is not appropriate to accrue expenses such as salary or travel when FDCH administrative funds are available to make those payments.

a. All accrued expenses must be properly documented in formal accounting records and must be available at the sponsor's office for review and audit purposes. All accruals shall be supported by a written agreement to secure goods or services for a specified time period and amount. The accounting entries recording accruals, accrued expenses reported on Claims for Reimbursement, receipt of reimbursement for accruals and disposition of accruals must be reconciled monthly. If revenue is received from the Louisiana Department of Education for accrued expenses in the current FDCH Program fiscal year, the expense for the same period shall

not be included on a Claim for Reimbursement in a subsequent program year.

i. Proper documentation for accrual of audit costs is:

(a) a signed engagement letter from a certified public accountant addressed to the sponsor that states the period to be audited, the type of audit to be performed, the cost of the audit, and the date the audit report will be completed.

(b) a written schedule listing the amount and the date of each accrual recorded; the accrual amount must be traceable to the amount of actual expenses reported on the monthly Claim for Reimbursement; and

(c) the original invoice and documentation of payment, such as the cancelled check, must be on file.

i. Proper documentation for accrual of payroll taxes is:

(a) time and attendance sheets indicating dates and times worked by FDCH employees for all payroll periods;

(b) cancelled checks proving payment of salary to each FDCH employee for the payroll period;

(c) a worksheet detailing, by FDCH employee, the gross salaries that were earned for each payroll period in the month, the amount of federal and state tax; Medicare and Social Security withheld from each employee for that month, and the total withheld for the month, which is the sponsor's liability for monthly tax payments. This total must be traceable to the amount of accrual recorded and to the amount of actual expenses reported on the monthly Claim for Reimbursement. An additional column on the worksheet should provide the date of salary payment to each FDCH employee, the check number and the amount paid to the employee;

(d) documentation showing actual payment and payment date to the tax authorities for the period accrued.

b. All documented accrued expenses, for which FDCH funds have not been received and for which no payment has been made, must be recorded as receivables and payables on the sponsor's formal accounting records on September 30 of that program year. An accrued liability, for which final disposition has not been made in the sponsor's formal accounting records as of September 30 of the current program fiscal year, shall not be reported as an expense on a Claim for Reimbursement in a subsequent fiscal year. Final disposition of prior year accrued liabilities must be recorded in the sponsor's formal accounting records.

3. Unearned Administrative Funds. All unearned administrative funds remaining at the close of the program fiscal year must be returned to the State Agency.

a. Sponsors shall report only allowable paid administrative expenses and legitimate accruals on the monthly Claim for Reimbursement.

4. Interest on Advanced Payments. Sponsors may retain all interest earned on FDCH funds as long as the interest is used to support the FDCH Program and to meet all other criteria for allowable program costs.

5. Leases and Contracts. The State Agency must approve all leases and contracts, real or implied, between the sponsor and second parties prior to enactment and all purchases of \$500 or more. Three detailed quotes for

purchases of \$500 or more must be obtained by the sponsor and kept on file in the sponsor's office.

a. No sponsor can contract with sponsor employees, board members, or their family members using FDCH administrative funds.

6. Disposition of Property Purchased with FDCH Funds Upon Termination of Participation. All FDCH sponsors must comply with State and Federal property management requirements when the acquisition cost has been charged, in whole or in part, to the FDCH Program.

D. Sponsor Staff.

1. Work Hours and Days. A sponsor employee may be paid a maximum of eight hours per day on weekdays between the hours of 6 a.m. and 8 p.m. with FDCH funds. FDCH funds may not be used to pay employees for work on Saturdays, Sundays or official State Agency or sponsor holidays. All employee's salaries must be based on time sheets filled out daily by the employee. The time sheet must indicate both the time the employee arrives at work and leaves work each day.

2. Restrictions on Outside Employment. Sponsors must have written policies restricting other employment of employees which interferes with their FDCH Program responsibilities and duties. Those policies must include the following policies below.

a. The sponsor administrator (e.g., Executive Director, Director, etc.) must be a full-time employee of the sponsoring institution and may not be employed by an outside entity during the sponsor's hours of operation.

b. If any employee is employed in another job in addition to the one with the sponsoring institution, the total amount of hours worked in both jobs may not exceed 12 hours per day.

3. Salaries. Salaries for all sponsoring institution employees must be in line with the average salaries for comparable positions in other nonprofit agencies in the service area.

4. Providers Not Active in Sponsor Operations. Individuals shall not be actively engaged in the day-to-day operations of any sponsor, either full or part-time, and participate in the FDCH Program as a provider. Board members are not affected by this policy, since they are not involved in the day-to-day operations of the sponsor.

5. Employment of Minors. The following requirements are mandatory for sponsors who employ minors.

a. In order to be paid with FDCH funds, the minor must be at least 16 years old.

b. The sponsor must keep on file a work permit or employment certificate for each minor employed.

c. If a minor is employed by the sponsor, Louisiana's Child Labor Law (R.S. 23:151 et seq.) and all other Louisiana Department of Labor rules and regulations pertaining to the employment of minors must be followed.

E. Sponsor Offices. State Agency policies for offices located in or on the same property as private residences are as follows:

1. Physical Attributes. There must be a separate, direct entrance to the sponsor's business office.

a. If the office is located inside a private residence, the office must have a door or wall that separates the sponsor's office from the rest of the residence.

b. In order to assure compliance with Civil Rights requirements, the sponsor must post on display a permanent sign that is visible from the street outside of the residence where the office is located. The sign shall give the name of the sponsor, and that name must be able to be read from the street.

c. There must be a telephone line, separate from the residence telephone, which is listed in the name of the sponsor.

d. The office must contain a secured permanent file cabinet(s) in which FDCH Program and provider records are maintained.

2. Office Hours and Staffing. The sponsor's office shall be open during all hours and days of sponsor operation as listed in the approved sponsor application/agreement. At a minimum, the office shall be open Monday through Friday from 8 a.m. to 4 p.m. Those individuals listed in the approved sponsor application/agreement shall staff the sponsor office at all times during hours of operation.

a. Exceptions. Exceptions to the office hours and staffing policy may be approved by the State Agency on a case-by-case basis. General exceptions to the policy are granted under the following conditions:

3. Program Related Office Closure. Sponsor offices may be closed to conduct FDCH Program related activities such as attendance at State-approved conferences or meetings and provider monitoring and training if the following conditions are met:

a. Except in cases of State-sponsored conferences or meetings, the State Agency must be notified in advance. Sponsors may notify the State Agency either by telephone or in writing. Contact information will be amended as needed and will be communicated by memorandum.

b. A telephone answering machine or some other means by which the sponsor may be contacted shall be used for incoming messages.

4. Staff Absences. Sponsor offices may be staffed by individuals not listed in the approved application/agreement for vacation or personal reasons if the following conditions are met:

a. An adult volunteer or substitute employee must remain in the sponsor's office during the approved hours and days of operation.

b. Except in emergency situations, the State Agency must be notified in advance, in writing, of the sponsor's absence and the name of the person(s) who will staff the office during the sponsor's absence.

5. Non-Program Related Office Closure. Sponsor offices may be closed for vacation or personal reasons if the following conditions are met:

a. All of the sponsor's providers agree in advance, in writing, that they are willing to relinquish their claims for meals served while the sponsor's office is closed.

b. The State Agency is notified in writing, in advance.

6. Telephone Calls. All telephone calls to sponsoring agencies from providers and State Agency staff must be returned within 24 clock hours from the time of the initial telephone call. When answering the telephone during the sponsor's hours of operation, sponsor personnel should answer the telephone using the name of the sponsor.

7. Administrative Overclaims Imposed by the State Agency. If the above stated office hours and staffing policies are not adhered to, providers can not claim meal reimbursement during the absence of sponsor employees; and providers will be allowed to transfer to another sponsor. In addition, the sponsor will be subject to being capped, and the administrative reimbursement for the month in which the violation occurred may be jeopardized.

F. Monitoring. All meal types claimed by a provider must be monitored by the sponsor within each year. If a provider claims breakfast, a.m. snack, lunch, and p.m. snack, each of the four meals must be monitored.

G. Provider Fraud. A provider who has been found guilty of fraud as determined through the court system, including deferred adjudication cases, shall be terminated from participation in the FDCH Program effective with the court sentence.

1. Sponsors shall submit documentation of the final, legal decision to the State Agency within 30 calendar days of receipt by the sponsor of the decision.

H. Discrimination Clause. All sponsor FDCH Program materials - such as flyers, handouts, posters, press releases, etc. - must include the following statement:

1. "This facility is operated in accordance with United States Department of Agriculture policy, which prohibits discrimination on the basis of race, color, sex, age, handicap, religion, or national origin."

a. An abbreviated version of this statement is not acceptable.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3511. Reimbursement

A. Administrative Reimbursement

1. Formula for Administrative Allowance in Regulations. During any fiscal year, administrative costs payments to a sponsor from the State Agency may not exceed the lessor of:

a. actual expenditures for the costs of administering the FDCH Program less income to the program, or

b. the amount of administrative costs approved by the State Agency in the sponsor's budget, or

c. the sum of the products obtained by multiplying each month the sponsor's number of approved providers by the current administrative allowance. The administrative allowance, by regulation, is a different rate for the first 50 providers, the next 150 providers, the next 800 providers and any additional above.

d. During any fiscal year, administrative payments to a sponsor may not exceed 30 percent of the total amount of administrative payments and food service payments for provider operations.

2. Claims for Administrative Reimbursement. Only allowable paid administrative expenses and legitimate accruals may be claimed by a sponsor for reimbursement.

B. Provider Reimbursement. Sponsors must distribute all properly earned provider payments within five working days from receipt of funds from the State Agency.

1. Delinquent distribution will result in the sponsor's being declared seriously deficient in its operation of the Family Day Care Home Program and the sponsor will be subject to termination of program participation.

2. Failure to disburse provider payments within ten working days of receipt of funds will result in recall of all funds for the month in question. All Child Nutrition Program Agreements with the sponsoring institution will be immediately terminated. All other consequences that relate to sponsor termination as specified in Federal Regulation 7 CFR Part 226.6 will also result from this action.

3. The sponsor must make a bank deposit of provider payments no later than the next working day following receipt of the funds. It is the sponsor's responsibility to provide appropriate documentation of both the date of receipt of provider funds and the date of disbursement of those funds to the providers.

4. Provider payment may be denied or suspended by the sponsor when there is sufficient reason to indicate that the provider did not rightfully earn the payment and/or broke any terms of the Provider Agreement. Such denial or suspension of payment must be formally documented, and documentation must be kept on file in the sponsor's office.

5. If a sponsor recovers program funds from a provider or does not disburse the funds, those funds must be returned to the State Agency within three months from the date of discovery of the discrepancy. If the sponsor or provider has initiated legal proceedings involving program payment, the funds need not be returned within the three month period; however, the sponsor must present evidence of the legal proceedings to the State Agency.

6. Reasons for returning provider reimbursement to the State Agency include, but are not limited to, the following:

- a. provider moved; sponsor unable to locate her (him);
- b. provider check not cashed by expiration date imposed by sponsoring organization;
- c. unearned provider payments discovered after claims submitted;
- d. ineligible payments due to audit/review.

7. Sponsors shall not claim provider reimbursement for evening snacks or any meals served on Saturdays or Sundays, or official State Agency or sponsor holidays.

8. Meal service may be claimed from the beginning date of participation only if

- a. the sponsor has ensured that the provider has maintained daily records of menus, meal counts and attendance since the beginning date; and
- b. the sponsor has conducted a successful monitoring visit within the first four weeks of program operation.

9. Meals Provided by Parents. In order for a provider to receive reimbursement for a meal, the provider must provide, at a minimum, each of the identified components in the proper amounts. (Exception: breast milk for infants).

C. Claims for Reimbursement. All Claims for Reimbursement (Form DCH-112) must be submitted to the following address:

1. Louisiana Department of Education
 - a. Division of Appropriation Control
 - i. Post Office Box 94064, Capitol Station
 - ii. Baton Rouge, LA 70804-9064
2. Within this chapter, this division will hereinafter be referred to as the "LDE."

3. The LDE must process a complete and valid Claim for Reimbursement within 45 days from the date of receipt.

4. A sponsor must use a unique invoice number on each Claim for Reimbursement when submitting to the LDE for payment.

a. This unique invoice number must be a maximum of 12 alpha-numeric characters and must be placed in the upper right hand corner of the claim form.

b. The invoice number shall not be duplicated by the sponsor on Claims for Reimbursement that are submitted within the State Agency's fiscal period, which is July 1-June 30.

c. Each invoice number will appear on the check stub in the Invoice Number column. Payments from the FDCH Program will be identified under the Agency column on the check stub as "688."

5. Claims for Reimbursement must be submitted by the 10th of each month and shall cover only FDCH Program operations for the previous month. However, if the first or last month of program operations in any fiscal year contains 10 operating days or less, such month may be added to the appropriate adjacent month.

a. Claims for Reimbursement for the month of October shall not be combined with claims for the previous program year.

b. A final Claim for Reimbursement shall be postmarked and/or submitted to the LDE not later than 60 days following the last day of the full month covered by the claim. Claims for Reimbursement that are not postmarked and/or submitted within 60 days shall not be paid with FDCH Program funds unless the USDA Food and Nutrition Services approves a one-time exception for the sponsor.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3513. Audit/Review

A. Compliance with Federal Audit Requirements. The State Agency is required to ensure that FDCH sponsors are in compliance with Federal audit requirements under Circular A-133 and the USDA program regulations.

1. Audit Requirement. A sponsor that expends \$300,000 or more of Federal funds in a fiscal year must have an audit conducted for that year. The Louisiana Revised Statutes contain additional audit requirements for institutions that receive state or local funds.

2. Reporting to the State Agency. To ensure compliance with Federal audit requirements, the State Agency requires all approved sponsors to report annually to the Division of Nutrition Assistance the total expended, as a recipient or a subrecipient, for each Federal fund source, and the grand total for the sponsoring institution's most recently closed fiscal year. (Refer to Appendix A and B for the Report of Annual Expenditures of Federal Funds Received by Recipients or Subrecipients form and instructions.)

B. Overclaims. The State Agency has the authority to recover FDCH funds that were improperly claimed.

1. Overclaims must be paid to the LDE from a source other than federal FDCH funds, such as the sponsoring institution's general fund. This requirement does not apply to the return of FDCH funds that have not been disbursed by the sponsor to a provider that are repaid to the LDE within the same fiscal year in which they are earned.

2. Overclaims assessed against a sponsor by the State Agency that relate to provider payments may be recovered by the sponsor from the provider.

C. Administrative Cap. Any sponsor may be capped at the current number of eligible providers if found to be significantly deficient in FDCH Program management.

1. Examples of these management deficiencies may include the following:

- a. high error rates in home reviews or claim reviews;
- b. high error rates in the verification process;
- c. inaccurate or missing required information;
- d. inadequate financial records;
- e. failure of the sponsor to follow the FDCH Management Plan; and
- f. serious deficiencies in the FDCH Program.

2. This determination may be made as a result of any program review, audit, specific investigation, excessive packet errors, or an excessive rate of failures in the provider inspection process.

3. "Caps" will remain in effect until the sponsor demonstrates its ability to manage the Family Day Care Home Program effectively. This verification may be demonstrated by the findings of a review or audit, by submission of documentation, or by some other method as dictated by the particular circumstances(s) that warranted the implementation of the cap.

D. State Agency Policy for Noncompliance. Refer to Appendix C for a chart that lists the most critical areas of noncompliance that may be counted in a review error rate and/or that may result in overclaims.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3515. Allowable Costs

A. To be allowed for reimbursement under the FDCH Program, costs incurred by the sponsor must meet the following criteria.

1. Actual. Costs must represent actual operating or administrative costs incurred in the normal course of conducting the program.

a. Accrual or Cash Basis Accounting. Costs may be reported on an accrual basis (expenses and income recorded when incurred) or cash basis (expenses and income reported when paid/received); however, the sponsor's accounting system must treat costs consistently.

i. When reimbursement is paid on the lesser of meals times rates or cost, the final Claim for Reimbursement for the fiscal year must reflect costs on an accrual basis. This policy will require that sponsors using a cash basis

(a) report any cost incurred but not yet paid by the end of the current fiscal year, and any income earned during the current fiscal year, but not received by September 30, on the final claim of the FDCH Program fiscal year;

(b) make appropriate adjustments to ensure any accrued costs that have been reported are not reported again when actually paid, and any income reported in the prior fiscal year is not reported when the income is actually received.

ii. Sponsors must resolve all accrued costs upon receipt of the final reimbursement from the LDE for each fiscal year. Accrued costs that are not paid by the sponsor by

the closing of the fiscal year are not considered to be actual expenses.

2. Budgeted. Costs must be included in the approved administrative budget for the time period in question to be allowable.

a. Contracts and Leases. All contracts and leases, real or implied, that are entered into by the sponsoring institution and that are to be payable with FDCH Program funds must receive prior written State Agency approval.

3. Other Requirements. Costs must:

a. be necessary and reasonable for proper and efficient administration of the FDCH Program;

b. be authorized or not prohibited under State or local laws or regulations;

c. conform to any limitations or exclusions set forth in State or Federal laws, regulations, circulars or instructions as to types or amounts of cost items;

d. be accorded consistent treatment through the application of generally accepted accounting principles;

e. not be assignable or included as costs to any other Federally financed program in either the current or prior period;

f. be the net of all applicable credits;

g. be properly allocated; and

h. be adequately documented.

B. Examples of Allowable Costs are:

1. Accounting

2. Audits

a. Charges to the FDCH Program for organization-wide audit costs must be based upon the percentage of the FDCH funds to the total Federal funds expended by the sponsoring institution during the fiscal year to be audited. Any audit costs incurred by sponsoring institutions to meet other State, Federal, local, or institution needs are unallowable costs to FDCH Program funds.

b. Sponsors who operate multiple programs can prorate audit costs according to the percentage of total expenditures of the agency (excluding provider payments).

c. If the State Agency approves audit costs in the sponsor's FDCH budget, the State Agency reserves the right to approve the sponsor's independent auditor prior to engagement for audit services.

3. Bank Charges

4. Bonding Costs

5. Business Cards

6. Communications

a. The costs incurred for equipment and services—such as telephone, telegraph, FAX, beeper, postage, and messenger services for FDCH Program purposes—are allowable.

b. In circumstances in which charges are incurred per call, such as with cellular telephones or with long distance calls, only those calls that are related to the FDCH Program are allowable.

c. Communication services must be registered in the name of the sponsor; and all telephone, fax, beeper or cellular numbers to be paid with FDCH Program funds must be included in the approved sponsor administrative budget.

7. Computer equipment (Prior written State Agency approval is required.)

8. Depreciation

9. Dues, Subscriptions, and Professional Activity Costs. (Only if related to the FDCH Program and approved in writing by the State Agency.)

10. Fringe Benefits

11. Labor

12. Legal (Prior written State Agency approval is required.)

a. Exception: Legal fees associated with the prosecution of a claim against the Federal Government are unallowable. Administrative costs such as for an appeal, and some criminal and civil proceedings

13. Meetings and Conferences (Prior written State Agency approval is required.)

14. Insurance (Prior written State Agency approval is required.)

15. Inventory costs

16. Payroll Preparation

17. Personnel Administration

18. Printing and Reproduction

20. Records Retention Costs

21. Space and Facilities Costs (Prior written State Agency approval is required.)

22. Taxes

23. Travel

a. All out -of -state travel must be submitted for approval by the State Agency no later than two weeks prior to the beginning date of the travel.

b. State travel regulations must be followed for all sponsor employee travel. All travel receipts must be kept on file in the sponsor's office. (See "Chapter 37: Websites Appendix" in §3303 for Louisiana State Travel Regulations.)

c. Mileage. Documentation to support mileage charged to the FDCH Program must include a travel log for each FDCH employee.

i. The log must indicate the date(s) of travel, the driver's name, the origin and destination of each trip, beginning and ending odometer readings, the purpose of the travel, and the total miles traveled.

ii. Prior to payment to the employee, these records must be signed by a responsible sponsor official and reviewed to ensure that costs are reasonable and accurate.

iii. Mileage reimbursement is not allowed for travel between an employee's residence and the office.

d. For overnight travel, receipts for all travel expenses must be maintained on file in the sponsor's office.

C. Examples of Unallowable Costs

1. Bad Debts (e.g., overdrafts, late payment charges)

2. Bonuses to employees

3. Contingencies

4. Contributions

5. Donations

6. Entertainment

7. Fines and penalties

8. Over Claims

9. Political Costs

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3517. Provider Participation

A. Family Day Care Home (FDCH) providers who care for up to six children in their private homes may participate in the FDCH Program if they meet program eligibility

requirements and are enrolled through an approved sponsoring agency.

B. Eligibility Requirements. The FDCH Program eligibility requirements for a provider are summarized as follows:

1. Minimum Age

a. Persons must be at least 18 years of age or be legally emancipated to enroll. Some examples of legally acceptable emancipation are judicial, marriage, and parent's notarial act.

2. Facility Approval

a. The home used for childcare must be the provider's residence.

b. The home cannot be used for another purpose that would conflict or duplicate the service of childcare.

c. The home must pass a pre-approval inspection by the sponsoring institution.

d. The sponsor is responsible for assessing, in both the pre-approval process and in each monitoring visit, the capability of the day care home facility and the caregiver to provide adequate childcare.

i. The home must have the necessary equipment to provide child care and meal service,

ii. The child care environment may not present a threat to the health or safety of the children.

iii. The age and number of children must be considered in determining the number of caregivers needed in the home.

e. The home must be certified by the Louisiana Office of State Fire Marshal.

3. New Provider. The following policies govern provider approval and registration.

a. A new provider will be approved to begin FDCH Program participation no earlier than the first of the month in which the packet has been reviewed by the State Agency and found to be complete and correct.

b. A new provider is one who:

i. has never participated in the Family Day Care Home Program before;

ii. has been dropped or terminated from participation in the Family Day Care Home Program and subsequently wishes to begin participation again;

iii. has experienced more than a three month lapse in program eligibility; and

iv. has signed an agreement with a different FDCH sponsor after his/her period of eligibility has expired.

4. Recertifiable Provider

a. A recertifying provider will be approved to begin FDCH Program participation as early as the first of the month in which a complete and correct packet is received in the State Agency.

b. A recertifiable provider is one who:

i. has previously been approved to participate and has experienced no more than a three month lapse in program eligibility;

ii. has transferred sponsorship with State Agency approval during his/her period of eligibility;

iii. has a change in provider using the same facility and operations as previously approved; and

iv. has a change in address with a new inspection of the new facility.

5. Provider Employment

a. The provider cannot have any other job besides childcare unless such employment is specifically approved in advance by the State Agency.

6. Enrollment

a. The provider must complete an FDCH Program Application/Agreement packet. The sponsor must submit the provider packet to the State Agency.

b. Registration and Approval. The State Agency must register and approve the provider for FDCH Program participation.

c. The following policies govern provider enrollment:

i. Dual Participation. The provider cannot be under an agreement with more than one sponsor at a time.

ii. Affiliation. The provider cannot be a part of the daily operations of any sponsoring institution.

iii. Social and Health Needs. The provider must allow parents and staff from the sponsor, State and Federal government to visit the day care home without prior notice.

iv. Civil Rights: Provider operations must be nondiscriminatory.

v. Nonresident Child(ren). The provider must care for at least one nonresident child who is properly enrolled and approved to participate in the FDCH Program.

7. Employment of Parents and Guardians. At least one parent or guardian with whom enrolled nonresident children participating in the FDCH Program reside must be employed or enrolled in school or a formal job search program.

a. Sponsors must conduct verification of employment, school or job search activities for parents or guardians of all enrolled children when a new provider is enrolled in the FDCH Program. After the initial verification, the sponsor is required to conduct verification during the following times:

i. at the provider's recertification time;

ii. when a new child is enrolled;

iii. when the provider moves; and/or

iv. when there is provider change.

b. The sponsor is responsible for the accuracy of the employment, school, or job search information only at the required time when the information is verified.

c. Verification of Employment. The Employment Verification Form (DCH-114) or the employment documentation described later in this paragraph must be completed for all new providers and for those in situations as listed in section a. i. – iv. above.

i. All information on the form must be completed for at least one parent or guardian with whom each nonresident enrolled child resides. The information should be completed for the parent or guardian generally responsible for taking the child to and from the family day care home.

ii. If the sponsor chooses not to complete the DCH-114, the parent or guardian's employment or enrollment in school or job search activities must be documented by the employer or school/job search official on company (school) letterhead.

iii. For parents or guardians who are self-employed, the sponsor must have on file from the parent a notarized statement attesting to the nature of the self-employment.

iv. Sponsors must continue to verify all information on the Enrollment Form (DCH-2) for each child at recertification time or when the provider's address changes. If all of the information remains the same, the sponsor must indicate that fact by initialing and dating the form. If any of the information remains the same, the sponsor must indicate that fact by initialing and dating the form. If any information on the DCH-2 changes, the information must be edited with the sponsor's initials and date of the edit, or a new DCH-2 must be completed. If there is a provider change or the provider moves, a new DCH-2 must be completed for each child. The DCH-2 will still be retained in the sponsor's office; the DCH-2 must be available for review by State staff during the sponsor's hours of operation.

8. Meal Service Schedule.

a. Three hours shall elapse between the beginning of one meal service and the beginning of another. At least two hours shall elapse between the beginning of a meal service and the beginning of a supplement.

b. Major meals must be scheduled between the following timelines:

i. Breakfast 6–10 a.m.

ii. Lunch 11 a.m.– 1:30 p.m.

iii. Supper 5 p.m.- 8:00 p.m.

iv. The last meal or snack of the day and/or shift that is claimed for a child must be served at least 30 minutes prior to the time the child leaves the home, according to the attendance schedule recorded on the Enrollment Form (DCH-2).

c. A meal schedule must indicate a specific time of meal service rather than a range of service time.

i. Meal service 15 minutes before or after the scheduled time of service will be acceptable when found in monitoring reviews as long as the required two hours between a snack and a major meal and three hours between major meals are still accomplished.

ii. Providers should retain some evidence of the meal service if it is served early so that, if the home is monitored, the reviewer can see the foods that were served.

iii. Up to two different service times per meal type may be established to serve children who arrive or depart at different times. For example, if one group of children arrives for breakfast at 7 a.m. and another group arrives at 8 a.m., a 7 a.m. service time can be approved.

d. Meals may not be claimed on weekends or official State Agency or sponsor holidays.

9. Income Status of Reimbursement. FDCH reimbursement is considered income to the provider when completing the Household Eligibility Determination Application (HEDA). As income, the reimbursement can also affect all public assistance programs which require the reporting of the recipient's income, such as Food Stamps, Social Security Insurance, TANF, etc. It is the provider's responsibility to report this income to any relevant government agencies by which the provider is affected. The sponsor's responsibility is to inform the provider of the fact that the FDCH reimbursement is considered income. This responsibility is accomplished with the issuance of the Provider's Handbook.

10. Military Benefits.

a. Military benefits received in cash - such as housing allowance for military households living off-base, food allowance and uniform allowance - must be considered as income. Countable income is all money a household receives as actual cash. Housing subsidies received as cash allowances by households living off-base may not under any circumstances be considered as in-kind housing. The value of on-base housing is to be excluded from a household's gross income. In-kind benefits, including housing, are benefits which are of value, but which are not provided to the household in the form of cash.

b. To ensure that military allowances are included as income on the HEDA and that proper eligibility determinations are made, sponsoring institutions should record allowances and identify them under the "All Other Income" column of the application and rank and years of service could be shown under the "Monthly Earnings from Work" column.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

§3519. Appendices

A. Report of Annual Expenditures of Federal Funds Received by Recipients or Subrecipients

B. Instructions for Submitting the Report of Annual Expenditures of Federal Funds Received by Recipients or Subrecipients

C. Chart: Louisiana Family Day Care Home Program State Agency Actions for Noncompliance, Provider Claim Review

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:

Appendix A

Report Of Annual Expenditures Of Federal Funds Received By Recipients Or Subrecipients

In Accordance With Office Of Management And Budget Circular A-133

_____ From _____ To _____, 2_____
Sponsor Financial Statement Period

Sponsor Name _____
Address _____
City, State, Zip _____

*Sponsors having a Single Audit of all fund sources may attach a copy of the Schedule of Federal Awards from the 2____ audit report to this form, in lieu of completing this section of the form.

Name of Federal Fund Source CFDA No. Expenditures
During Financial Period

Total Expenditures for Financial Period \$ _____

I certify that the above information is true and correct, to the best of my knowledge.

Sponsor Authorized Representative Date

SEND COMPLETED FORM TO:

Louisiana Department of Education
Division of Nutrition Assistance
P. O. Box 94064
Baton Rouge, LA 70804-9064
Attention: Audit Resolution
DUE WITHIN 60 DAYS OF
SPONSOR'S FINANCIAL
PERIOD CLOSE

Appendix B

Instructions for Submitting the Report of Annual Expenditures of Federal Funds Received by Recipients or Subrecipients

1. Federal Circular A-133 requires that non-Federal entities that expend \$300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year.

2. In accordance with the United States Department of Agriculture (USDA) Uniform Administrative Requirements found in the Code of Federal Regulations (7 CFR Part 3016), the State Agency must assure that the subrecipients meet Federal audit requirements. Therefore, have the institution's financial staff complete and submit the attached Report of Annual Expenditures form as directed below:

a. In the upper right corner, show the sponsoring institution's financial statement period (e.g. 10/1/99-9/30/00). Be sure to include the sponsor name where requested.

b. In the center section, list the total sponsoring institution expenditures during the financial statement period for each Federal fund source. Identify the fund source by name and Catalog of Federal Domestic Assistance (CFDA) Number.

i. If the sponsor received USDA commodities or cash in lieu of commodities, that information must also be reported in the Expenditures section, as applicable to the sponsoring institution.

c. If a sponsoring institution has received its completed audit report for the 2____ financial statement period, a copy of the Schedule of Federal Awards, which outlines all Federal expenditures for the institution, may be attached to the signed Report of Annual Expenditures form when returned to the State Agency.

d. Completed reports for all financial periods ending in calendar year 2____ are due to the State Agency no later than March 2, 2____.

3. If total Federal expenditures for the sponsoring institution's financial period are \$300,000 or more, then the institution is required to have an audit under Federal Circular A-133. Audit reports must be completed within nine (9) months after the end of the institution's financial period. Two copies of the audit report must be sent to the following:

- a. Louisiana Department of Education
 - i. Bureau of Internal Audit
 - ii. Post Office Box 94064, Capitol Station
 - iii. Baton Rouge, LA 70804-9064

b. While recipients or subrecipients of Federal funds that do not meet the annual expenditure threshold of \$300,000 are not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any Federal, State, or local government agency. Also, Louisiana Revised Statutes (R. S. 24:513) contain

additional audit requirements for institutions that receive State or local funds.

Appendix C

The following chart lists the most critical areas of noncompliance which may be counted in a review error rate and/or may result in overclaims. It is organized as follows:

1. Column 1 identifies the violations.
2. Column 2 describes the resulting State agency action.

3. An X mark in Column 3 identifies items which may cause the review or record to be counted in the error rate

4. An X mark in Column 4 identifies items which may result in overclaims.

Please be aware that this list is not all inclusive. Areas of noncompliance with federal regulations, policies, and instructions, and with state policies, procedures and instructions which have not been listed on this document may also result in State Agency actions.

**Louisiana Family Day Care Home Program
State Agency Actions For Noncompliance
Provider Claim Review**

VIOLATION	STATE AGENCY ACTION	%	\$
1. Invalid fire inspection certificate (i.e., out of date, different address)	Provider ineligible; total overclaim sponsor and provider	X	X
2. Invalid Provider Agreement (i.e., different address, unsigned, undated)	Provider ineligible; total overclaim sponsor and provider	X	X
Inaccurate/Missing Provider Application information	Provider ineligible; total overclaim sponsor and provider	X	X
Noncompliant meal schedule	Disallow meal payment for the child(ren).	X	X
3. Enrollment Form:			
Inaccurate/missing information on child's enrollment form	Child ineligible; disallow payment for the child's meals.	X	X
Claimed meal type not justified by child's hour of care as listed on enrollment form	Disallow meal payment for the child(ren).	X	X
Missing or insufficient handicap documentation	Disallow payment for affected program participant.	X	X
More than 6 current enrollment forms on file (no drop dates)	Disallow entire month's claim for provider and sponsor.	X	X
4. Meal Count and Attendance Form			
Unsigned or undated provider and sponsor.	Disallow entire month's claim for	X	X
Child's name not listed for that child.	Disallow entire month's payment	X	X
Unapproved meal type claimed meals.	Disallow payment for the unapproved	X	X
Unapproved day(s) of service claimed	Disallow day(s) of service.	X	X
VIOLATION	STATE AGENCY ACTION	%	\$
Resident child claimed for meals without enrolled nonresident child claimed for same meal(s)	Disallow resident child for meals served without nonresidents.	X	X
Miscount from provider records to sponsor claim	Adjust payment accordingly.	X	X
Unapproved day(s) of service claimed	Disallow day(s) of service.	X	X
Resident child claimed for meals without enrolled nonresident child claimed for same meal(s)	Disallow resident child for meals served without nonresidents.	X	X
Miscount from provider records to sponsor claim	Adjust payment accordingly.	X	X
5. Menu Record:			
Noncompliant menus (> 5%) children claimed.	Disallow noncompliant menus for all children claimed.	X	X
Noncompliant menu (< 5%) children claimed.	Disallow noncompliant menus for all children claimed.	X	X
No menu record(s)	Disallow all children claimed for the	X	X

		meal(s).		
	No medical documentation for food substitutions	Disallow all meals not meeting component requirements.	X	X
6.	Meal service observed on monitoring review different than that claimed by provider	Disallow payment for the day of service.	X	X
7.	Current and complete Preapproval Form not on file	Disallow entire month's claim and sponsor's payment.	X	X
8.	Required provider eligibility forms (e.g., Application, Agreement, Fire Inspection Report, etc.) not on file in sponsor's office	Disallow entire month's claim and sponsor's payment.	X	X
9.	HEDA:			
	Missing/inaccurate information on HEDA	Disallow meals for all affected child(ren).	X	X
	Missing/insufficient documentation of household income or categorical eligibility (does not apply to nonresident children qualifying for Tier I reimbursement)	Disallow meals for all affected child(ren).	X	X
	Failure to list all household income	Disallow meals for all affected child(ren).	X	X
	Missing statement(s) of payment or nonpayment from parents	Disallow meals for all affected child(ren).	X	X
	VIOLATION	STATE AGENCY ACTION	%	\$
10.	Employment/Enrollment Verification			
	Missing employment verification for appropriate time period	Disallow payment for affected child(ren).	X	X
	Parent not employed as recorded at time of reported employment verification	Disallow meals for all affected child(ren).	X	X
	Parent reports that child(ren) is (are) not cared for by provider.	Disallow payment for affected child(ren). Sponsor must investigate for fraud.	X	X
	Parent reports that child(ren) is (are) not present when meal(s) claimed	Disallow payment for affected child(ren). Sponsor must investigate for fraud.	X	X
11.	Tiering			
	Missing/Incomplete Tier Determination Form (DCH 115)	Disallow difference between Tier I and Tier II rates for entire period of time provider was not assigned a correct tiering status. Disallow sponsor payment for test month.	X	X
	Inaccurate tier determination (incorrectly tiered as tier I rather than tier II)	Disallow difference between Tier I and Tier II rates for entire period of time provider was not assigned a correct tiering status. Disallow sponsor payment for test month.	X	X
	Inaccurate tier determination (incorrectly tiered as tier II rather than tier I)	Sponsor must immediately correct tier determination and submit copy of corrected Tier Determination Form to state. Disallow sponsor payment for test month.	X	X
	Missing, incomplete, or invalid tiering backup documentation	Disallow difference between Tier I and Tier II rates for entire period of time provider was not assigned a correct tiering status. Disallow sponsor payment for test month.	X	X

**State Agency Actions For Noncompliance
Provider Home Review**

VIOLATION	STATE AGENCY ACTION	%	\$
Provider not participating as scheduled until a documented successful sponsor-conducted following-up monitoring visit.	Disallow payment for the day of service and	X	X
1. Service schedule noncompliant (different than recorded schedule)	Cite and require corrective action; disallow payment for the meal; require follow-up	X	X
2. Menu records noncompliant	Disallow payment for all noncompliant meals	X	X
3. Menu observed noncompliant	Disallow payment for meal observed	X	X
4. Meal count and menu records not being kept daily	Disallow payment of non-recorded days from first of month to day prior to review. Require sponsor-conducted follow-up visit within 5 working days	X	X
5. Meal count and attendance recorded in advance	Disallow payment for days recorded in advance; require sponsor-conducted follow-up visit within 5 working days, documenting training in record-keeping requirements and penalties for fraud.	X	X
6. Program records not given to provider	Require sponsor to give all providers required program records (e.g. monitoring reports, application, agreement, etc.). If sponsor has not done so by next state or federal conducted review, an overclaim for sponsor payment(s) will be assessed.	X	X
7. Registry Standards: Imminent threat to the health or safety of the children; inoperable smoke alarm or fire extinguisher, direct refusal to comply with civil rights standards, etc.	Provider ineligible as of day of review until compliance is documented by one sponsor follow-up visit.	X	X
More than six children at one time	Provider ineligible as of day of visit until a documented successful sponsor-conducted follow-up visits document compliance. If the additional children found are resident children, provider is ineligible from date provider became noncompliant once the attendance of her own children is considered.	X	X
8. Parent provided one or more of required food components. (Exception: breast milk for infants)	Disallow payment of child(ren) for day of service until correction documented.	X	X
9. Monitoring or training noncompliant payments for test month.	Verify in sponsor files; disallow sponsor	X	X

**State Agency Actions For Noncompliance
Sponsor-Related Violations**

VIOLATION	STATE AGENCY ACTION	%	\$
1. Monitoring:			
Visits not within time-frames	Disallow sponsor payments for test month.	X	X
All meal types claimed not monitored within a year	Disallow sponsor payments for test month.	X	X
2. Financial/General			
Less validated administrative expenses than paid through claim process	Reduce administrative payment accordingly.	X	X
Unallowable/unsubstantiated expenditures	Reduce administrative payment if necessary. Cite and require corrective action.	X	X
Travel not appropriately documented	Adjust payment accordingly.	X	X

Time and attendance not appropriately documented	Adjust payment accordingly.	X	X
Claim inaccurate	Adjust payment accordingly.	X	X
Noncompliant purchasing, leases, or contracts	Reduce administrative payments if necessary. Cite and require corrective action.	X	X
Failure to comply with terms of Sponsor Application/Agreement and/or inadequate documentation to substantiate terms of Sponsor Application/Agreement	Assess sponsor overclaim and/or require corrective action.	X	X
Failure to correct and/or failure to maintain corrective action of previously-cited deficiencies	Sponsor may be declared seriously deficient with possibility of a cap on enrollment or termination from the CACFP.	X	X

Chapter 37. Websites

§3701. USDA Official Website: (www.USDA.gov)

- A. Links to the following sites:
1. Food Nutrition and Consumer Services (www.fns.USDA.gov/fncs)
 2. Child Nutrition (<http://www.fns.usda.gov/cnd/>)
 3. Team Nutrition (<http://www.fns.usda.gov/tn/>)
 4. Food Distribution (<http://www.fns.usda.gov/fdd/>)
 5. Integrity/Fraud Civil Rights (<http://www.fns.usda.gov/cr/>)
 6. Disaster Response (<http://www.fns.usda.gov/fns/MENU/response/default.htm>)

§3703. Food and Nutrition Website: (www.fns.usda.gov/cnd)

- A. Links to the following sites:
1. School Lunch Program (www.fns.USDA.gov/cnd/lunch)
 2. Breakfast Program (www.fns.USDA.gov/cnd/Breakfast)
 3. Afterschool Snacks (www.fns.USDA.gov/cnd/afterschool)
 4. Special Milk Program (www.fns.USDA.gov/cnd/milk)
 5. Applications (www.fns.USDA.gov/cnd/Translations)
 6. Child and Adult Care Food Program (<http://www.fns.usda.gov/cnd/Care/CACFP/cacfphome.htm>)
 7. Nutrition Education (<http://www.fns.usda.gov/cnd/net/netproghist.htm>)

§3705. National Dairy Council Website: (www.nationaldairycouncil.org)

§3707. Agriculture Marketing Service Dairy Programs Website: (www.fmmatlanta.com)

§3709. National Agricultural Library Website: (www.nal.usda.gov)

§3711. Healthy School Meals Website: (http://schoolmeals.nal.usda.gov:8001, Select Regulations and Such)

§3713. Commodities Website: (www.fns.usda.gov/fdd)

- A. Links to the following sites:
1. Commodity News and Information
 2. Commodity Fact Sheet
 3. Recipes
 4. Child Nutrition
 5. Food Distribution

§3717. Louisiana State Department of Education Website: (www.doe.state.la.us)

§3719. Louisiana State Department of Agriculture Website: (www.ldaf.state.la.us)

§3721. Louisiana State Government Website: (www.state.la.us)

- A. Links to the following sites:
1. Department of Education
 2. Nutrition Education Training Library
 3. School Food Program
 4. Summer Food Program
 5. Environmental Quality
 6. Health and Hospitals
 7. Insurance
 8. Social Services
 9. State Boards and Commissions
 10. Frequently Asked Questions

§3723. Louisiana State Ethics Website: (www.ethics.state.la.us)

- A. Links to the following sites:
1. General Information/Ethics and Procedures Laws (www.ethics.state.la.us/laws/ethiclaw.htm)

§3735. Louisiana Department of Social Services Website: (www.dss.state.la.us.htm)

- A. Direct Link to the Office of Family Support (www.dss.state.la.us/offofs)

- B. Links to the following sites:
1. Food Stamp Program
 2. FITAP

§3737. Louisiana Legislative Website: (www.legis.state.la.us)

- A. Links to the following sites:
1. School Lunch Program (www.legis.state.la.us/tsrs/RS/17/RS_17_194)
 2. School Breakfast Program (www.legis.state.la.us/tsrs/RS/17/RS_17_192)

§3739. State Fire Marshall Website: (www.dps.state.la.us/sfm)

§3741. State Purchasing Website: (www.state.la.us/osp/SiteIndex)

- A. Links to the following sites:
1. Purchasing Regulations
 2. State Contracts
 3. Vendor Center
 4. Legal Information

Chapter 39. Glossary

A. Definitions/Abbreviations

Accrual Basis Accounting—that revenue is reported in which the service (or sale) occurs regardless of when the payment is received. Liabilities are reported in the period in which they are incurred regardless of when the payment is made.

Adopted Child—a child for whom a household has accepted legal responsibility and who is considered to be a member of the household.

Aggregate Purchase Amount—the dollar value of items purchased from a single source for a bid period.

Allowable Costs—authorized expenditures, both operating and administrative, that are necessary and reasonable for proper and efficient administration of the school food service programs.

Americans With Disabilities Act of 1990 (P.L. 101-336)—prohibits discrimination on the basis of disability.

Approved Vendor List—a list of vendors who have demonstrated the ability to perform successfully under the terms and conditions of a proposed procurement, consideration being given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Attendance Factor—a percentage developed no less than once each school year to account for the difference between enrollment and attendance at any given time. An attendance factor is calculated by dividing the average daily attendance for a period of time by the total enrollment for the same period of time. The attendance factor may be developed by the SFA, with State approval, or may be developed by the State Agency. A SFA shall assume that all children eligible for free and reduced priced meals attend school at the same rate as the general school population.

Authorized School Food Authority Representative—a person who has signed the agreement with the State Agency to participate in the National School Lunch Program and School Breakfast Program.

BESE—an abbreviation for the State Board of Elementary and Secondary Education.

Biennial Audit—an audit conducted every second year covering every year.

Breakfast—a meal that meets the nutritional requirements of the school breakfast pattern as designated in USDA, FNS, 7CFR, Part 220.8 and that is served to the child at or close to the beginning of the child's day at school.

Cash Basis of Accounting—recording income and expense only when actual cash changes hands. This process means that the income is recorded when money is received and that expenses are recorded when the payment is made.

Central Kitchen—a kitchen in which food is prepared to be transported and served at another school, or where food is to be served to children who are brought from another school in addition to the children in attendance at the site.

Certified CNP Director/Supervisor—one who has met the requirements for certification as set forth in Bulletin 746: Louisiana Standards for State Certification of School Personnel. Certification has been a prerequisite for employment as a CNP director/supervisor since January 1, 1977. Certification can be obtained in either of two areas of specialty: food service or nutrition.

Certified Manager, Food Production Manager/Assistant Manager—the recipient of the certification issued by the Louisiana State Department of Education LDOE upon one's successful completion of the prescribed training program.

Certified Product Formulation Statement—a certified Product Formulation Statement form, signed and dated by the food manufacturer, can be utilized to document the contribution a commercially prepared food item makes toward meeting meal pattern requirement. Unlike the CN labeled product, the Certified Product Formulation Statement provides no warranty against audit claims. However, should an audit exception be made following an analysis of the product, the SFA may have a legal recourse against the food manufacturer submitting the signed statement.

Child—a student of high school grade or under enrolled in a school in Louisiana, including a student participating in a school program established for the mentally or physically disabled or students enrolled in any public or nonprofit private classes if preprimary grade when they are conducted in aforementioned schools, or a person under 21 chronological years of age enrolled in a public or nonprofit residential child care institution.

Child Nutrition (CN) Labeling Program—the Child Nutrition (CN) Labeling Program is a voluntary technical assistance program for the Child Nutrition Programs administered by the Food and Nutrition Service (FNS) in conjunction with the food Safety and Inspection Service (FSIS), Agriculture Marketing Service (AMS), and National Marine Fisheries Service. This program essentially involves review of a manufacturer's recipe or product formulation to determine the contribution a product makes toward meal pattern requirements. The CN labeled product provides a warranty against audit claims if the product is used according to the manufacturer's directions. This warranty applies only to the CN labeled portions, not to the entire meal. Those manufacturers who are interested in having their products analyzed may contact USDA Food and Nutrition Service, Nutrition and Technical Service Division; 3101 Park Center Drive, Room 607; Alexandria, Virginia 22302. Telephone (703) 305-2556.

Claim for Reimbursement (SFS-8A, 8B, and 8C Forms)—the forms to be completed in order to claim Federal reimbursement for meals served during the month of operation.

CNP—an abbreviation for Child Nutrition Program.

Code of Conduct—standards of conduct that shall govern the performance of the officers, employees or agents in contracting for payment and expending program funds. Federal procurement regulations require each SFA to maintain a written code or standards of conduct.

Collateral Contract—an oral confirmation of a household's circumstances by a person outside of the household.

Competitive Negotiation—a procurement method that may be used whenever competitive sealed bids are determined to be inappropriate or unfeasible, such as for professional services. Requests for proposals must be solicited from an adequate number of qualified sources, must be publicized, and must identify all significant evaluation factors. The SFA must provide a mechanism for technical

evaluation of the proposals received. This type of procurement method must be documented.

Competitive Sealed Bids—the procurement method, commonly called formal bid procedure, required by Federal regulations whenever the aggregate purchase amount exceeds \$10,000. Purchase by competitive sealed bids requires

- a. a public advertisement of the invitation to bid;
- b. bid solicitations from an adequate number of known suppliers;
- c. a clear description of the items or services needed; and
- d. the public opening of bids.

Complete Meal—a meal that contains the number of menu components that constitutes a reimbursable meal.

Contract

- a. a legally enforceable agreement between two (or more) parties in which each promises to do (or not to do) something;
- b. the writing or document containing such an agreement.

Contract Extension—a modification of a contract to extend the bid prices beyond the ending contract date. Since extending a bid is a modification of the contract, the grantee must perform some form of cost or price analysis. Permission to extend a contract must be secured from the State Agency; permission is granted only under special circumstances.

Cost of Food Used—the dollar value of the beginning inventory, minus/plus the value of inventory adjustments for transfers or inventory errors, plus the dollar value of food received during the month of reporting minus applicable credits, less the value of ending inventory. Credits to the cost of food used include returns to vendors, allowances on invoices for unacceptable food, cash discounts, and rebates.

Current Income—income received by the household during the month prior to application for participation in the National School Lunch Program. If such income does not accurately reflect the household's annual rate of income, income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual rate of income.

Daily Food Production Record (SFS-6 Form), also called the *Menu Worksheet*,—the daily production record completed for lunch and for breakfast to detail the number of meals planned and served, the count of plates used to serve meals, the menu components served, the serving size(s) of each component, the amount of ingredients for each component, the number of extra servings, and the amount of each food left at the end of service.

Daily Participation Report (SFS-7 Form)—the form to be completed daily for each participating school (including a report for each satellite school) reporting income and participation date by category. These forms are used at the end of the month to complete the Claim for Reimbursement (SFS-8 and 8C forms).

Direct Certification—a method of automatically establishing the eligibility of school children entitled to free meals or milk because of their participation in the Food Stamp Program, Aid to Families with Dependent Children

(FITAP), or Food Distribution Program on Indian Reservations (FDPIR).

Division of Nutrition Assistance—the division of the Louisiana Department of Education, Office of School and Community Support that supports the National School Lunch Program.

DNA—an abbreviation for Division of Nutrition Assistance.

Drop Delivery—a delivery to one location within the SFA, such as a central warehouse. The SFA assumes responsibility for delivery to the schools.

Edit Check—a system in which daily counts of free, reduced, and paid student meals for individual schools and SFAs are compared to the number of eligible students in each category, respectfully, times an attendance factor to ensure accurate meal counts.

EEO Clause—a provision required in instructions to the vendors for contracts over \$10,000. The provision or clause requires the vendor's compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 41 CFR Part 60.

Economic Unit—a group of related or unrelated people who share housing and/or all significant income and expenses of its members.

Emancipated Child—a child who lives alone or as a separate economic unit and who is considered "a household."

Equipment—an article of nonexpendable, tangible personal property having a useful life of more than one year, which does not lose its identity through fabrication or incorporation into a different or more complex unit, and an acquisition cost that equals or exceeds \$1000.

FDP—an abbreviation for the Food Distribution Program.

Food Stamp Household—an individual or group of individuals currently certified to receive assistance as a household under the Food Stamp Program.

Foreign Exchange Student—a foreign student considered to be a member of the household in which he/she resides: i.e., the household hosting the student.

Formal Bid—a common name for the purchase method of using competitive sealed bids. A formal bid, or competitive sealed bid, is required by Federal and State regulations when the aggregate purchase amount exceeds \$10,000.

Foster Child—a child living with a household but remaining the legal responsibility of the welfare agency or county/parish.

Free Meal—a meal served to a child from a household eligible for such benefits under USDA, FNS, 7 CFR Part 245. Neither the child nor any member of the household is required to pay or to work for the meal.

Free not Section II Meals—to those meals served to students who do not qualify for free or reduced priced meals but who are given free meals as partial or full payment for working in the school food service department.

General Fund—a category of funds unrestricted or not designated for a particular use but which may be used for many purposes. School boards usually use "fund accounting" and have both restricted and unrestricted funds.

Generally Accepted Accounting Principles (GAAP)—a technical accounting term that encompasses the conventions, rules, and procedures necessary to define an accepted accounting practice at a particular time. Generally, GAAP, for government, is promulgated by the Governmental Accounting Standards Board (GASB) in the Codification of Governmental Accounting and Financial Reporting and subsequent GASB pronouncements.

Generally Accepted Government Auditing Standards—Government Auditing Standards - Standards for Audit of Governmental Organization, Programs Activities, and Functions, (1988) issued by the United States General Accounting Office.

Gross Income—all money earned before such deductions as income taxes, employee's social security taxes, insurance premiums, and bonds.

Household—a group of related or unrelated individuals who are not residents of an institution or boarding house, but who are living as one economic unit.

IEP—an abbreviation for a student's Individualized Education Program. A written statement of specially designed instruction for each student with an exceptionality, the IEP is developed by a group of qualified education personnel and the parent/guardian of such student.

Income Eligibility Guidelines—the family-size income levels prescribed annually by the USDA for use by States in establishing eligibility for free and reduced price meals. The free guidelines are 130 Percent of Federal poverty guidelines and the reduced price guidelines are 185 percent of Federal poverty guidelines.

Independent Auditor—the State Legislative Auditor or certified public accountant who meets the independence standards specified in generally accepted government auditing standards.

Initial Equipment—the basic preparation, storage and service equipment that a SFA is required to have to begin a food service program.

Institutional Child—a child who resides in a residential-type facility within the state.

Internal Controls—the plan of organization and methods and procedures adopted by management to ensure that resource use is consistent with laws, regulations, and policies; resources are safeguarded against waste, loss, and misuse; and reliable data are obtained, maintained, and fairly disclosed in reports.

Joint Custody Student—one who physically changes residence: i.e., weekly, monthly. The student is part of the household where he/she resides.

Loan—a sum of money that has been lent for temporary use and that must be repaid. Refer to the section entitled "Repayment of Loans" for a discussion on allowable costs.

Louisiana School Food Service Training Program—a program composed of three levels or phases. Phase I, which is designed for all food service technicians/employees, consists of 49 audiovisual units. Phases II and III are designed for food service manager applicants. Phase II consists of 22 written self-instructional units. Phase III is a one-week training course taught by the State Agency staff.

Lunch—a meal that meets the school lunch pattern for specified age/grade groups of children as designated in USDA, FNS, 7CFR Part 210.10 and that is served at or about midday between the hours of 10:00 AM and 2:00 PM.

LDAF—an abbreviation for the Louisiana Department of Agriculture and Forestry.

LDOE—an abbreviation for the Louisiana Department of Education.

Meal Equivalent Factor—the average cost of the meal from the prior school year including the value of commodities.

Net Cash Resources—all monies, as determined by the State Agency's established accounting system, that are available to or have accrued to the school food authority's nonprofit school food service program at any time, less cash payable. Such monies may include, but are not limited to, cash on hand, cash receivable, investments, earnings on investments, and cash on deposit.

Noncompetitive Negotiation—a procurement method that may be used when no price quotes can be obtained. It may be used when the item is available from a sole source; when a public emergency exists and the urgency for the item will not permit a delay for competitive solicitation; or when, after solicitation from a number of sources, competition is determined to be inadequate. If the cost of the item is more than \$10,000, State Agency authorization must be secured.

Nonpricing Program—an institution in which there is no separate identifiable charge made for meals served to participants.

Nonprofit (when applied to school or institutions eligible for the school food service programs)—exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954, as amended.

Nonprofit School Food Service—all food service operations conducted by the School Food Authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food services.

NSF—an abbreviation for the National Sanitation Foundation.

NSLP—an abbreviation for the National School Lunch Program.

Offer Versus Serve (OVS)—that high school students may refuse one or two of the required five food items at lunch. While this form of serving is mandatory in high school, it is optional for middle, junior or elementary schools at lunch. SFAs may choose to allow students in middle, junior or elementary schools to decline two items or one item. OVS is optional for all grade levels at breakfast from which one food item may be declined of the four required food items. Students must be allowed to make the decision of which food item or items they will decline.

Operating Transfer—money transferred "in" to the school food service account or cost center from another fund is not repaid and is not a reimbursement for expenditures. Regulations do not permit school food service funds to be transferred "out" to another fund.

Overt Identification—an act that openly identifies children as eligible for free or reduced price benefits in the National School Lunch Program, After School Snack Service, School Breakfast Program, or Special Milk Program.

PAL (Planned Assistance Levels)—the dollar value of USDA commodities allocated to a school food authority.

Paid Meal—a meal served to a child who is not eligible for or who elects not to receive free or reduced price meal

benefits. The Federal government subsidizes each paid meal with both general cash assistance and donated foods.

Payable—salaries earned but not paid and/or items or services received but not paid.

Pricing Program—a program in which a separate identifiable charge is made for meals served to participants.

Provisional CNP Supervisor—a person to whom provisional certification has been issued subsequent to his/her having been employed as an acting CNP director or supervisor. This certification, valid for one year, is renewable each year thereafter upon presentation of six semester hours of applicable credit toward completion of all requirements for permanent CNP certification.

Public Accountant—an individual who meets the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

RCCI—an abbreviation for Residential Child Care Institutions.

Recipient—any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through the Louisiana State Department of Education, but does not include an individual that is a beneficiary of such a program.

Reduced Price Meal—a meal served to a child from a household eligible for such benefits under USDA, FNS, 7CFR Part 245. The child or the household pays \$.40 or less for lunch and \$.30 or less for breakfast.

Reimbursable Breakfast—a meal that meets the school breakfast pattern requirements as specified in CFR 7 Part 220.8 (a), and (b).

Reimbursable Lunch—a meal that meets the school lunch pattern requirements as specified in CFR 7 Part 210.10.

Reimbursement—Federal cash assistance payable to School Food Authorities for breakfasts and lunches meeting the requirement of USDA, FNS, 7CFR Part 220.9 and 210.10 served to eligible children at rates assigned by the State Agency.

Revenue (when applied to nonprofit school food service)—all monies received by or accruing to nonprofit school food service in accordance with the State Agency's established accounting system including but not limited to children's payments, earnings on investments, other local revenues, State revenues, and Federal cash reimbursements.

SBESE—an abbreviation for the State Board of Elementary and Secondary Education.

SBP—an abbreviation for the School Breakfast Program.

School—any public or nonpublic school of high school grade or under recognized by the State Board of Elementary and Secondary Education as eligible to participate in the CNPs administered by the LDOE, provided that requirements set forth in the Agreement with the local school board or nonpublic school Sponsor are met or any public or nonprofit private classes of pre primary grade when they are conducted in the aforementioned schools.

School Food Authority—the governing body that is responsible for the administration of one or more schools and which has legal authority to operate the school food service programs therein or which has been otherwise approved by the Louisiana State Department of Education.

SFA—an abbreviation for School Food Authority.

Single Source—there are several sources of an item but the purchaser receives bids from only one source.

Sole Source—there is only one source of the item.

Small Purchase Procedure—a type of procurement method that may be utilized whenever:

a. the aggregate purchase amount of food does not exceed \$10,000 (exception: milk and milk products);

b. the purchases are for highly perishable materials (for example, fresh produce); or

c. the purchase is for materials, equipment and/or supplies under \$10,000. Equipment and supplies costing less than \$10,000, must have no fewer than three telephone, facsimile or written quotations.

Specification—a clear and simple description of an item or service that is identifiable with the current market, that is capable of being checked, that is fair and protective, and that allows maximum competition in bidding. The use of clear specifications is required with any method of purchasing.

Sponsor—a local school board or governing body of an institution that is legally responsible for the administration of the Child Nutrition Program.

Sponsoring Agency—a local school board or governing body of an institution that is legally responsible for the administration of the Child Nutrition Program.

Standards of Identity—food standards that are regulated by the Food and Drug Administration to describe the nature and character of a given item and to specify the kinds and amounts of ingredients that must go into a product. The standard of identity for a specific food tells what is in it, how it is made, and how the product looks; it also sets limits such as fat and moisture content.

State Agency—the Louisiana State Department of Education.

State Fiscal Year—a period of 12 calendar months beginning July 1 of any year and ending with June 30 of the following year.

Student—an individual for whom instruction is provided in an elementary or secondary education program under the jurisdiction of a school, school system, or other educational institution.

Table of Authorized Large and Small Equipment—a listing of equipment authorized for purchase with use of school food service funds.

Unauthorized Equipment—any equipment that shall not be purchased with school food service funds.

UL—an abbreviation of Underwriters Laboratories.

USDA—an abbreviation for the United States Department of Agriculture.

USDA Commodities—the food items purchased by USDA for donation to nonprofit food service programs.

Verification—confirmation of eligibility for free and reduced price benefits under the National School Lunch or School Breakfast Program.

Visitor—any person who is not a school system employee or student.

Volunteer—any individual who performs duties free of charge for the local school food authority and/or its sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191-199; R.S. 1792.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 27:

Interested persons may submit comments until 4:30 p.m., October 9, 2001 to: Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1196—Louisiana Food and
Nutrition Programs, Policies of Operation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no estimated costs (savings) to state or local governmental units. This is a revision of the 1995 revision of *Bulletin 1196* which has incorporated all Federal and State policy changes since 1995 which have already been implemented by the School Food Authorities. The only implementation cost will involve printing and postage necessary for dissemination of the rule change. There will be no costs thereafter due to the fact the Bulletin will be on the Website and can be downloaded.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of fiscal and economic impact statement in the Louisiana Register is approximately \$2,133.75. Funds are currently budgeted for this purpose.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no estimated effect on revenue collection of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no costs 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.

Marlyn Langley Robert E. Hosse
Deputy Superintendent General Government Section Director
Management and Finance Legislative Fiscal Office
0108#048

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV.101-111, 301, 501-509, 701-705, 801-805,
901-911, 1101-1111, 1301-1305, 1501, 1503, 1701-1705,
1901, 1903, 2101-2109, 2113, 2115, 2301-2313)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend and repromulgate its Scholarship/Grant rules (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

The full text of these proposed rules may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

The proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 20, 2001, to Jack L. Guinn, Executive Director, Office of 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:

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Anticipated implementation cost of these changes is \$2,791,186 in FY 2001-2002, \$4,681,748 in FY 2002-2003, \$6,251,560 in FY 2003-2004, \$6,588,538 in FY 2004-2005, and \$5,627,439 in FY 2005-2006.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from these rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These rule changes directly benefit recipients of the scholarship grant programs and their families.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0108#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI. 101-107, 301-315)

The Louisiana Tuition Trust Authority (LATTA) announces its intention to amend rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2). The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

This 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., October 20, 2001, to Jack L. Guinn, Executive Director, Office of 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: Student Tuition and Revenue Trust
(START Saving) Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of these changes should result in an increase in expenditures for START of \$15,260 in FY 2001-2002, \$48,799 in FY 2002-2003, \$64,260 in FY 2003-2004, \$162,694 in FY 2004-2005, and \$278,268 in FY 2005-2006, for programming costs, advertising and printing for promoting the changes, and to publish rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from the revision. State law prior to Act 332 (SB 690 of the 2001 Regular Legislative Session) allowed START account owners to deduct up to \$2,400 each year in START contributions from state income tax calculations. Act 332 allows START owners to roll over unused deductibility of State income taxes from one year to the next. There is no way to estimate how much this provision will reduce state income tax revenue. However, the amount should be small because the current average annual START contribution is only \$504 per year. Furthermore, at 4% rate for state income tax, the \$2,400 deduction would reduce tax income taxes by only \$96 ($\$2,400 \times 4\% = \96).

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

These changes will make the program more attractive and broaden its appeal for those who wish to save for college expenses.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0108#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Emissions of Nitrogen Oxides—Control

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 adopt the Air Quality regulations, LAC 33:III.Chapter 22 (Log #AQ215).

This rule establishes requirements for reducing emissions of nitrogen oxides (NO_x) to allow the Baton Rouge nonattainment area to come into compliance with the National Ambient Air Quality Standard for ozone by May of 2005. Five parishes are defined by EPA as nonattainment. They are the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Livingston is included even though it has no NO_x emissions sources greater than 50 tons per year (tpy). Modeling has demonstrated that the nonattainment area cannot be brought

into attainment without including certain outlying parishes. Therefore, the parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana also have been included in the rule. The rule establishes emission factors for reducing emissions from boilers, heaters, furnaces, turbines, and internal combustion engines at affected facilities. The rule also establishes requirements for permits, compliance, recordkeeping and reporting. During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone nonattainment area did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Urban Airshed Modeling (UAM) indicates that a reduction in NO_x emissions and further reduction in VOC emissions are required to lower ozone levels. Therefore, it is necessary to identify and promulgate regulations to implement emission reduction controls. LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS. This rule to control emissions of NO_x is only one measure identified to reduce emissions. The basis and rationale for this rule are to protect air quality in Louisiana and comply with the NAAQS for ozone.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (2) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air Quality

**Chapter 22. Control of Emissions of Nitrogen Oxides
(NO_x)**

**§2201. Affected Facilities in the Greater Baton Rouge
NO_x Control Area**

A. Applicability

1. The provisions of this Chapter shall apply to any affected facility in the Greater Baton Rouge NO_x Control Area (i.e., the entire parishes of Ascension, East Feliciana, East Baton Rouge, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana).

2. The provisions of this Chapter shall apply during the ozone season (May 1 to September 30) of each year.

3. All affected facilities shall be in compliance as expeditiously as possible, but by no later than May 1, 2005.

B. Exemptions. The following categories of equipment or processes located at an affected facility within the Greater Baton Rouge NO_x Control Area are exempted from the provisions of this Chapter, except that the NO_x emissions from exempt point sources shall be included in the determination of what is an affected facility:

1. boilers and process heater/furnaces with a maximum rated capacity of less than 80 million British thermal units (MMBtu) per hour;

2. stationary gas turbines with a megawatt rating based on heat input of less than 10 megawatts (MW);

3. stationary internal combustion engines with a horsepower rating of less than 300 horsepower (Hp);

4. low ozone season capacity factor boilers and process heater/furnaces as defined in Subsection C of this Section;

5. stationary gas turbines and stationary internal combustion engines, that are:

- a. used in research and testing;
- b. used for performance verification and testing;
- c. used solely to power other engines or turbines during start-ups;
- d. operated exclusively for fire fighting and/or flood control;
- e. used in response to and during the existence of any officially declared disaster or state of emergency;
- f. used directly and exclusively for agricultural operations necessary for the growing of crops or the raising of fowl or animals; or
- g. used as chemical processing gas turbines.

6. any point source that operates less than 400 hours during the ozone season;

7. flares, incinerators, ovens and kilns as defined in Subsection C of this Section;

8. any point source during start-up and shutdown as defined in LAC 33:III.111 or during a malfunction as defined in 40 CFR 60.2;

9. any point source used solely to start up a process;

10. any point source firing biomass fuel that supplies greater than 50 percent of the heat input on a monthly basis;

11. any point source at a sugar mill;

12. fluid catalytic cracking unit regenerators;

13. pulp liquor recovery furnaces;

14. diesel-fired stationary internal combustion engines;

15. any affected point source that is required to meet a more stringent state or federal NO_x emission limitation or monitoring, reporting, or recordkeeping requirement (When comparing limits, the factors shall be converted to higher heating value for fuel, if applicable, and to the appropriate units of the factors in Subsection D of this Section.);

16. wood-fired boilers that are subject to 40 CFR 60, subpart Db; and

17. nitric acid production units that are subject to 40 CFR 60, subpart G or LAC 33:III.2307.

C. Definitions. Unless specifically defined in this Subsection or in LAC 33:III.111 or 502, the words, terms, and abbreviations in this Chapter shall have the meanings commonly used in the field of air pollution control. For purposes of this Chapter only, the following definitions shall supersede any definitions in LAC 33:III.111 or 502.

Administrator—the administrator, or an authorized representative, of the U. S. Environmental Protection Agency (EPA).

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Affected Facility—any facility within the Greater Baton Rouge NO_x Control Area with one or more affected point sources that collectively emit or have the potential to emit 50 tons or more per year of NO_x. Emissions from exempt sources, as listed in Subsection B of this Section, shall be included in the determination of an affected facility.

Affected Point Source—any boiler, process heater/furnace, stationary gas turbine, stationary internal combustion engine, or other stationary combustion point

source located at an affected facility. This is not exempt as defined in Subsection B of this Section.

Ammonia Reformer—a type of process heater/furnace located in an ammonia production plant that is designed to heat a mixture of natural gas and steam to produce hydrogen and carbon oxides.

Averaging Capacity—the average actual heat input rate in MMBtu/hour at which an affected point source operated during the ozone season of the two calendar years of 2000 and 2001. Another period may be used to calculate the averaging capacity if approved by the department.

Biomass—defined as bagasse, rice-husks, wood, or other combustible, vegetation-derived material that is suitable for use as fuel.

Boiler—any combustion equipment fired with any solid, liquid, and/or gaseous fuel that is primarily used to produce steam, or heat water, or any other heat transfer medium for power generation or for heat to an industrial, institutional, or commercial operation. Equipment that is operated primarily for waste treatment and that incidentally produces steam shall not be regulated under this Chapter as a boiler.

Cap—a system for demonstrating compliance whereby an affected facility or a group of affected facilities under common control are operated to stay below a mass emission rate expressed as mass per unit of time. The allowable mass emission rate is calculated by adding the allowable emissions for each affected point source. The allowable emission is the product of the source's averaging capacity and the applicable factor in Subsection D.1 of this Section.

Chemical Processing Gas Turbine—a gas turbine that vents its exhaust gases into the operating stream of a chemical process.

Coal—all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials, Designation D388-77. For the purposes of this Chapter, coal shall also include petroleum coke, solid carbon residues from the processing of petroleum products and coal-derived synthetic fuels, including but not limited to, solvent refined coal, coal-oil mixtures, and coal-water mixtures.

Combined Cycle—a combustion equipment configuration that generates electrical power with a stationary gas or liquid-fired turbine and/or a stationary internal combustion engine and that recovers heat from the discharge within equipment to heat water or generate steam.

Continuous Emissions Monitoring System (CEMS)—the total equipment necessary to sample and condition, if applicable, to analyze, and to provide a permanent record of emissions.

Daily Average—an average of the hourly data for one calendar day starting at 12-midnight and continuing until the following 12-midnight.

Department—the Louisiana Department of Environmental Quality.

Elapsed Run-Time Meter—an instrument designed to measure and record the time that an affected point source has run during a designated period.

Electric Power Generating System—all boilers, stationary internal combustion engines, stationary gas turbines, and other combustion equipment within an affected facility that is used to generate electric power and that is owned or operated by a municipality, an electric cooperative,

an independent power producer, a public utility, or a Louisiana Public Service Commission regulated utility company, or any of its successors.

Emergency Standby Gas Turbine or Engine—a gas turbine or engine operated as an electrical or a mechanical power source for an affected facility when the primary source has been disrupted or discontinued during an emergency due to circumstances beyond the control of the owner or operator of the affected facility and that is operated only during such an emergency or when normal testing procedures, as recommended by the manufacturer, are being performed. The definition includes a stationary gas turbine or a stationary internal combustion engine that is used at a nuclear power plant as an emergency generator that is subject to Nuclear Regulatory Commission (NRC) regulations and a stationary internal combustion engine that is used for the emergency pumping of water for either fire protection or flood relief. This term does not include an electric generating unit in peaking service.

Facility—a contiguous area under common control that contains various types of equipment that emit or have the potential to emit NO_x.

Facility-Wide Averaging Plan—an alternative emission plan whereby an affected facility (or affected facilities with a common owner or operator) with multiple affected point sources of NO_x emissions achieves the required reduction by a different mix of controls from that mandated by Subsection D of this Section. Some affected point sources may be over-controlled (more restrictive than the regulation) or shutdown in order to offset other affected point sources that are under-controlled (less restrictive than the regulation) or not controlled, provided the required overall NO_x reduction is met.

Facility-Wide Emission Factor—the total average allowable NO_x emission factor in pound NO_x/MMBtu for affected point sources when firing at their averaging capacities.

F Factor—the ratio of the gas volume of the products of combustion to the heat content of the fuel, typically expressed in dry standard cubic feet (dscf) per MMBtu.

Fluid Catalytic Cracking Unit Regenerator—a unit in a refinery where catalyst is recovered (regenerated) by burning off coke and other deposits with hot air. The term includes the associated equipment for controlling air pollutant emissions and for heat recovery.

Flare—a type of equipment for combusting emergency gaseous vents and small, continuous purges and vents at an above-ground location.

Gas—any gaseous substance that can be used as a fuel to create heat and/or mechanical energy including natural gas, synthetically produced gas from coal or oil, gaseous substances from the decomposition of organic matter, and gas streams that are by-products of a manufacturing process.

Greater Baton Rouge NO_x Control Area—an area around Baton Rouge where NO_x controls are being implemented under this Chapter. The area consists of the entire parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.

Heat Input—the heat released due to fuel combustion in an affected point source, using the higher heating value of

the fuel, excluding the sensible heat of the incoming combustion air.

Higher Heating Value—a measurement of the heat evolved during the complete combustion of a substance, including the latent heat of condensation of any water that is produced.

Horsepower Rating—the engine manufacturer's maximum continuous load rating at the lesser of the engine or driven equipment's maximum published continuous speed.

Incinerator—any combustion equipment, with or without heat recovery, that is designed and operated primarily for the treatment of gaseous and/or liquid waste. If waste treatment is an incidental part of the operation, the unit shall not be classified as an incinerator. An example of incidental use is when a waste stream is injected into a boiler, process heater/furnace, or other piece of process combustion equipment and the waste streams contribute less than 50 percent of the total heat input.

International Standards Organization (ISO) Conditions—standard conditions of 59° F, 1.0 atmosphere, and 60 percent relative humidity.

Kilns and Ovens—combustion equipment used for drying, baking, cooking, and calcining. Kilns can also be used for the treatment of solid wastes.

Lean-Burn Engine—a spark-ignited or compression-ignited, Otto cycle, diesel cycle, or two-stroke engine that is operated with an exhaust stream oxygen concentration of 1.0 percent or more, by volume on a dry basis. The exhaust gas oxygen concentration shall be determined from the uncontrolled exhaust stream.

Liquid Fuel—any substance in a liquid state that can be used as a fuel to create heat and/or mechanical energy including:

- a. crude oil, petroleum oil, fuel oil, residual oil, distillate, or other liquid fuel derived from crude oil or petroleum;
- b. liquid by-products of a manufacturing process or a petroleum refinery; and
- c. any other liquid fuel.

Low Ozone Season Capacity Factor Boiler or Process Heater/Furnace—a boiler or process heater/furnace with maximum rated capacity greater than or equal to 80 MMBtu/hour and ozone season heat input less than or equal to 1×10^{11} Btu.

Malfunction—any sudden and unavoidable failure, as defined in LAC 33:III.111.

Maximum Rated Capacity—the maximum annual design capacity, as determined by the equipment manufacturer or as proven by actual performance in the field, unless the affected point source is limited by operating restriction or permit condition to a lesser capacity, in which case the limiting condition shall be used as the maximum rated capacity.

Megawatt (MW) Rating—the continuous power rating or mechanical equivalent by a stationary gas turbine manufacturer at ISO conditions, without consideration to the increase in turbine shaft output and/or decrease in turbine fuel consumption by the addition of energy recovered from exhaust heat.

Nitric Acid Production Unit—a facility that produces nitric acid by any process.

Nitrogen Oxides (NO_x)—the sum of the nitric oxide and nitrogen dioxide in a stream, collectively expressed as nitrogen dioxide.

Nonattainment Parish—in Louisiana, the parishes of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge.

Ozone Season—May 1 to September 30, inclusively.

Peaking Service—a stationary gas turbine or stationary internal combustion engine that is operated intermittently to produce energy. To be in peaking service, the annual heat input or horsepower-hours for the affected point source shall be less than the product of 2500 hours and the MW rating of the turbine or the horsepower rating of the engine.

Predictive Emissions Monitoring System (PEMS)—a system that estimates and records NO_x emissions from an affected point source by using process variables and other parameters as inputs to a computer program or other data collection system.

Process Heater/Furnace—any combustion equipment fired with solid, liquid, and/or gaseous fuel that is used to transfer heat to a process fluid, superheated steam, or water for the purpose of heating the process fluid or causing a chemical reaction. The term process heater/furnace does not apply to any unfired waste heat recovery boiler that is used to recover sensible heat from the exhaust of any combustion equipment, or to boilers as defined in this Subsection.

Pulp Liquor Recovery Furnace—either a straight kraft recovery furnace or a cross recovery furnace as defined in 40 CFR 60 subpart BB.

Rich-Burn Engine—all stationary reciprocating engines that do not fit the definition of lean-burn.

Stationary Gas Turbine—any turbine system that is gas and/or liquid fuel fired and that is either attached to a foundation at an affected facility or is portable equipment operated at a specific affected facility for more than 60 days in any ozone season.

Stationary Internal Combustion Engine—a reciprocating engine that is either gas and/or liquid fuel fired and that is either attached to a foundation or is portable equipment operated at a specific affected facility for more than six months at a time. This term does not include locomotive engines or self-propelled construction engines.

Supplemental Firing Unit—a unit with burners that is installed in the exhaust duct of a stationary gas turbine or internal combustion engine for the purpose of supplying supplemental heat to a downstream heat recovery unit.

Thirty-Day (30-Day) Rolling Average—an average, calculated for each day that fuel is combusted, of hourly emissions data for the preceding 30 days that fuel is combusted in an affected point source.

Totalizing Fuel Meter—a meter or metering system that provides a cumulative measure of fuel consumption.

Trading Allowances—the tons of NO_x emissions that result from over-controlling, permanently reducing the operating rate of, or permanently shutting down, an affected point source located within the Greater Baton Rouge NO_x Control Area. The allowances are determined in accordance with LAC 33:III.Chapter 6 and from the emission factors required by Subsection D of this Section for the affected point source and the enforceable emission factor assigned by the owner or operator in accordance with Subsection E of this Section. Trading allowances will be granted only for

reductions that are real, quantifiable, permanent, and federally enforceable.

Wood—wood, wood residue, bark, or any derivative fuel or residue thereof in any form, including but not limited to, sawdust, sander dust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

D. Emission Factors

1. The following table lists NO_x emission factors that shall apply to affected point sources located at affected facilities in the Greater Baton Rouge NO_x Control Area:

NO _x Emission Factors		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Boilers	>= 80 MMBtu/Hour	0.10 pound/MMBtu (gas, liquid or coal fired)
Process Heater/Furnaces	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Ammonia Reformers ^b	>= 80 MMBtu/Hour	0.23 pound/MMBtu
Stationary Gas Turbines	>= 10 MW	0.16 pound/MMBtu ^c
Stationary Internal Combustion Engines (rich-burn)	>= 300 Hp	2 g/Hp-hour
Stationary Internal Combustion Engines (lean-burn)	>= 1500 Hp	4 g/Hp-hour

^a all factors are based on the higher heating value of the fuel.

^b ammonia reformers are a specific type of process heater/furnace.

^c equivalent to 42ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

2. Any affected point source that operates with a combination of gas, liquid, or coal fuel shall comply with a variable emission limit calculated as the heat-input weighted average of the applicable limits in Subsection D.1 of this Section. However, if the secondary fuel is less than 10 percent of the weighted average, the owner or operator may choose to comply with the unadjusted limit for the primary fuel.

3. For affected point sources in an electric power generating system, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a daily average basis. Alternatively, a facility may choose to comply with a ton per day or a pound per hour cap provided that monitoring is installed to demonstrate compliance with the cap. The cap for a facility or for multiple facilities under common control is calculated by adding the products of the factor from Subsection D.1 of this Section and the averaging capacity for each affected point source as follows:

$$Cap (tpd) = 0.012 \times \sum_{i=1}^N (R_{ii} \times HI_i)$$

Where:

HI_i = the averaging capacity of each point source (MMBtu/hour)

i = each point source in the facility

N = the total number of point sources in the facility

R_{ii} = the limit for each point source from Subsection D of this Section (pound NO_x/MMBtu)

4. For all other affected point sources, the emission factors from Subsection D of this Section shall apply as the

mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a cap as detailed in Subsection D.3 of this Section provided a system, approved by the department, is installed to demonstrate compliance.

5. If one affected point source discharges in part or in whole to another affected point source, the portion discharging into the second point source shall be treated as emanating from the second point source and shall be controlled to the same limit as that specified for the second point source, while the portion discharging directly to the atmosphere from the first point source shall be controlled to the limit of the first point source. This term shall not include a combined cycle unit that discharges into a supplemental firing unit or other type of combustion equipment. For this type of point source, the emissions shall be controlled as follows:

- a. for the turbines and/or engines, at the appropriate limits for the turbines and/or engines alone; and
- b. for the supplemental firing unit or other type of combustion equipment, at the appropriate limit for the supplemental firing or combustion equipment with the measured emission values adjusted for the emissions coming from the turbines and/or engines.

6. Where a common stack is used to collect vents from affected point sources or affected point sources and exempt point sources and monitoring and/or testing of individual units is not feasible, the department, upon application from the owner or operator, shall specify alternative methods to demonstrate compliance with the emission limits of this Subsection.

7. Any affected point source firing gaseous fuel that contains hydrogen and/or carbon monoxide may apply a multiplier, as calculated below, to the appropriate emission factor given in Subsection D.1 of this Section. The total hydrogen and/or carbon monoxide volume in the gaseous fuel stream is divided by the total gaseous fuel flow volume to determine the volume percent of hydrogen and/or carbon monoxide in the fuel supply. In order to apply this multiplier, the owner or operator of the affected point source shall sample and analyze the fuel gas composition for hydrogen and/or carbon monoxide in accordance with Subsection G.4 of this Section.

If (Vol.% H₂ + Vol.% CO) = or < 50

Then

$$\text{fuel multiplier} = 1 + \frac{0.5 \times (\text{Vol.}\% \text{H}_2 + \text{Vol.}\% \text{CO})}{100}$$

Otherwise

$$\text{fuel multiplier} = 1.25$$

8. The owner or operator of a stationary gas turbine using a fuel that has an F factor different from 8710 dscf/MMBtu may adjust the allowable emission factor shown in Subsection D.1 of this Section. The adjustment is made by dividing the actual F factor (dscf/MMBtu) of the fuel by 8710 and multiplying the result by 0.16 to get the adjusted allowable emission factor. The use of this option shall be detailed in the permit application.

9. Any affected point source, including those in an electric power generating system, that uses ammonia or urea

as a NO_x reduction reagent shall comply with the ambient standard established in LAC 33:III.5112.

10. All affected point sources that rely on periodic stack testing to demonstrate continuous compliance shall be tested as soon as practicable after each occurrence of maintenance that may reasonably be expected to affect emissions (i.e., shutdowns involving component replacement, turbine overhaul, catalyst change-out, etc.). Portable analyzers shall be acceptable for this check. Documentation shall be maintained on-site, if practical, of the date, the person doing the test, and the test results. Documentation shall be made available for inspection upon request.

E. Alternative Plans

1. Facility-Wide Averaging Plan. A facility-wide averaging plan is established in this Chapter for single affected facilities and multiple affected facilities that are owned and operated by the same entity. Within the Greater Baton Rouge NO_x Control Area, an owner or operator of one or more affected facilities may use the facility-wide averaging plan as an alternate means of compliance with the emission factors from Subsection D of this Section. The details for use of a facility-wide averaging plan shall be requested in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. A facility-wide averaging plan submitted under this provision shall be approved if the department determines that it will provide substantially equivalent emission reductions to those who fall under the requirements of this Chapter and establishes satisfactory means for determining ongoing compliance, including appropriate monitoring and recordkeeping requirements. Approval of the alternative plans by the department does not necessarily indicate automatic approval by the administrator.

a. An owner or operator who elects to use a facility-wide averaging plan for compliance shall establish an emission limit for each applicable affected point source at the source such that if all affected point sources were operated at their averaging capacity, the cumulative emission rate of pounds NO_x/MMBtu from these point sources would not exceed the facility-wide emission limit. The equations below shall be used to calculate the cumulative emission rate and the facility-wide emission limit.

where:

$$\sum_{i=1}^N (R_{ai} \times f_i) \leq FL$$

where:

f_i = fraction of total system averaging capacity for point source i

HI_i = the averaging capacity of each point source (MMBtu/hour)

i = each point source in the averaging group

N = the total number of point sources in the averaging group

R_{ai} = the limit assigned by the owner to each point source in the averaging plan (pound NO_x/MMBtu)

R_{ii} = the limit for each point source from Subsection D of this Section (pound NO_x/MMBtu)

FL = facility-wide emission limit (pound NO_x/MMBtu)

b. An owner or operator of an electric power generating system that chooses to use an averaging plan

shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound NO_x/MMBtu on a daily average basis; or

ii. complying with a ton per day or a pound per hour cap provided that monitoring is installed to demonstrate compliance with the cap.

c. Owners or operators of all other affected point sources that choose to use an averaging plan shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound NO_x/MMBtu on a 30-day rolling average basis; or

ii. complying with a ton per day or pound per hour cap provided a system, approved by the department, is installed to demonstrate compliance with the cap.

d. The use of an averaging plan, by itself, shall not be construed to limit the maximum rated capacities of affected point sources to less than that already specified in permits issued prior to the adoption of this rule.

e. The owner or operator of affected point sources complying with the requirements of this Subsection can include in the plan either all of the affected point sources at the facility or select only certain sources to be included. Point sources that are reduced in capacity with a permit modification or permanently shutdown may be included in the averaging plan.

f. Point sources on which NO_x reductions were achieved after 1997 may be used in the averaging plan.

g. Exempted point sources, as defined in Subsection B of this Section, may be used in a facility-wide averaging plan.

h. Solely for the purpose of calculating the facility-wide emission limit, the allowable emission factor (pound NO_x/MMBtu) for each affected stationary internal combustion engine is the applicable NO_x emission factor from Subsection D of this Section (g/Hp-hour) divided by the product of the engine manufacturer's rated heat rate (expressed in Btu/Hp-hour) at the engine's Hp rating and 454×10^{-6} .

i. The owner or operator of affected point sources complying with the requirements of this Subsection in accordance with an emissions averaging plan shall carry out recordkeeping that includes, but is not limited to, a record of the data on which the determination of each point source's hourly, daily, or 30-day, as appropriate, compliance with the facility-wide averaging plan is based.

2. Trading Plan. A trading plan is established in this Chapter as an alternate means of compliance with the emission factors from Subsection D of this Section. Within the Greater Baton Rouge NO_x Control Area, trading allowances, as defined in Subsection C of this Section, may be traded between affected facilities owned by different companies. The approval to use trading shall be requested in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. A trading plan submitted under this provision shall be approved if the administrative authority determines that it will provide substantially equivalent emission reductions to those who fall under the requirements of this Chapter and establishes satisfactory means for determining ongoing compliance with

the trading plan, including appropriate monitoring and recordkeeping requirements.

a. The trading plan shall contain the following, as applicable:

i. a signed commitment between the parties agreeing to comply with the trading provisions;

ii. identification of the point source and details of the method used to quantify the allowances;

iii. details of how the allowances will be used;

iv. calculations demonstrating that the plan will provide equivalent to or more emission reductions than that required by the emission factors in Subsection D of this Section;

v. an explanation of how on-going compliance will be demonstrated; and

vi. monitoring and recordkeeping procedures.

b. Trading plan provisions, as specified in the permit, shall be federally enforceable.

c. Trading allowances for exempt point sources shall be determined from stack tests and the enforceable emission factor assigned by the owner or operator.

F. Permits

1. Authorization to Install and Operate NO_x Control Equipment

a. An owner or operator may obtain approval to install and operate NO_x control equipment that does not result in ammonia emissions by submitting documentation in accordance with LAC 33:III.511. This documentation shall include an estimate of any carbon monoxide (CO) and/or volatile organic compound (VOC) emission increases associated with the NO_x control technology. The administrative authority shall grant an authorization to construct and operate where consistent with LAC 33:III.501.C.3. Any appropriate permit revision reflecting the emission reduction shall be made no later than 180 days after commencement of operation and in accordance with the procedures of LAC 33:III.Chapter 5.

b. In accordance with LAC 33:III.511.C, installation of NO_x control equipment that results in ammonia emissions shall not commence until a permit or permit modification has been approved by the department. In accordance with LAC 33:III.5107.D.1, the department shall provide at least 30 days for public comment before issuing any such permit.

2. Alternatively to Subsection F.1 of this Section, an owner or operator of an affected facility that is operating with a Louisiana air permit may submit a completed permit modification application for the changes proposed to comply with this Chapter.

3. Any owner or operator with an affected facility that has retained grandfathered status, as described in LAC 33:III.501.B.6, shall submit an application in accordance with LAC 33:III.501.C.1 for the changes proposed to comply with this Chapter.

4. Duty to Supplement. In accordance with LAC 33:III.517.C, if an owner or operator has a permit application on file with the department, but the department has not released the proposed permit, the applicant shall supplement the application as necessary to address this Chapter.

5. Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR)

Considerations. A significant net emissions increase in CO and/or VOC in accordance with LAC 33:III.504 or 509, that is a direct result of, and incidental to, the installation of NO_x control equipment or implementation of a NO_x control technique required to comply with the provisions of this Chapter shall be exempt from the requirements of LAC 33:III.509 and/or 504, as appropriate, provided the following conditions are met:

- a. the project shall not:
 - i. cause or contribute to a violation of the national ambient air quality standard (NAAQS); or
 - ii. adversely affect visibility or other air quality related value (AQRV) in a class I area;
 - b. any increase in CO and/or VOC emissions shall be:
 - i. quantified in the submittal required by Subsection F.1-4 of this Section; and
 - ii. tested in accordance with Subsection G of this Section, as applicable;
 - c. the owner or operator shall submit a CO and/or VOC minimization plan, describing all reasonable measures taken to minimize any increase in CO and/or VOC emissions resulting from installation of NO_x abatement equipment or implementation of a NO_x control technique. This plan shall be included in the application required by Subsection F.1-4 of this Section;
 - d. notwithstanding the requirements of Subsection D of this Section and Table 1 of LAC 33:III.504, any increase of VOC emissions at an affected facility located in a nonattainment parish shall be offset at a ratio of 1.0 to 1. Offsets shall be surplus, permanent, quantifiable, and federally enforceable and calculated in accordance with LAC 33:III.Chapter 6; and
 - e. a 30-day public comment period shall be provided in accordance with LAC 33:III.519.C prior to issuance of a permit or permit modification.
6. An increase in any criteria pollutant other than CO or VOC shall be subject to the applicable requirements of LAC 33:III.509. Increases in hazardous air pollutant (HAP) or toxic air pollutant (TAP) emissions shall be subject to the applicable requirements of 40 CFR part 63 subpart B and LAC 33:III.Chapter 51, respectively.
7. When pre-permit application approval of plans is desired by an owner or operator, a compliance plan may be submitted in accordance with this Subsection. The administrative authority shall approve the plan if it contains all of the required information to determine that the affected sources will be in compliance with this Chapter and is accurate. The compliance plan may address individual point sources, groups of point sources, or all point sources at the facility, as determined by the owner. The following information shall be submitted as appropriate:
- a. the facility designation, as indicated by the identification number, submitted to the Office of Environmental Services, Permits Division;
 - b. a list of all units in the compliance plan, the emission point number as designated on the emission inventory questionnaire, the averaging capacity, and the maximum rated capacity;
 - c. identification of all combustion units with a claimed exemption in accordance with Subsection B of this Section, and the rule basis for the claimed exemption;

- d. a list of any units that have been, or will be, de-rated or shutdown and rendered inoperable;
- e. for each unit, the actual emission factor that will be used to achieve compliance;
- f. the control technology to be applied for each unit subject to control, and an anticipated construction schedule for each control device including the dates for completion of engineering, submission of permit applications, start and finish of construction, and initial start-up; and
- g. the calculations to demonstrate that each unit will achieve the required NO_x emission rate.

G. Initial Demonstration of Compliance

1. All affected point sources that are subject to the emission limitations of Subsection D or E of this Section shall be tested for NO_x, CO, oxygen (O₂), and VOC, if applicable, emissions while firing gaseous fuel (and, as applicable, hydrogen and/or carbon monoxide composition of the fuel for affected point sources using a fuel multiplier from Subsection D.7 of this Section). Affected point sources with urea or ammonia injection into the exhaust stream for NO_x control shall be tested for ammonia emissions. Performance testing of these point sources shall be performed in accordance with the schedule specified in Subsection J of this Section.
2. The tests required by Subsection G.1 of this Section shall be performed by the test methods referenced in Subsection G.4 of this Section and shall be used for determination of initial compliance with either the emission factors from Subsection D of this Section or the assigned emission factors from Subsection E of this Section, as applicable. Test results shall be reported in the units of the applicable emission factors and averaging periods.
3. Emission testing conducted in the three years prior to the initial demonstration of compliance date may be used to demonstrate compliance with the limits of Subsection D or E of this Section, if the owner or operator demonstrates to the administrative authority that the prior testing meets the requirements of this Subsection. The request to waive emissions testing according to this Paragraph shall be included in the permit application. The administrative authority reserves the right to request performance testing or CEMS performance evaluation at any time.
4. Compliance with the emission specifications of Subsection D or E of this Section for affected point sources operating without CEMS or PEMS shall be demonstrated while operating at the maximum rated capacity, or as near thereto as practicable. The stack tests shall be performed according to emissions testing guidelines located on the department website in the technology section. Three one-hour tests shall be performed and the following methods from 40CFR part 60 appendix A shall be used:
 - a. Methods 1, 2, 3, and 4 for exhaust gas flow;
 - b. Method 3A or 20 for O₂;
 - c. Method 7E or 20 for NO_x;
 - d. Method 10 or 10A for CO;
 - e. Method 18 or 25A for VOC;
 - f. modified Method 5, or a department-approved equivalent, for NH₃; and/ or
 - g. American Society of Testing and Materials (ASTM) Method D1945-96e1 or ASTM Method D2650-99 for fuel composition; ASTM Method D1826-94 or ASTM Method 3588-98 for calorific value.

5. Any alternative or equivalent test methods, waivers, monitoring methods, testing and monitoring procedures, customized or correction factors, and alternatives to any design, equipment, work practices, or operational standards must be approved by both the administrative authority and the administrator before it becomes effective.

6. An owner or operator may request approval from the administrative authority for minor modifications to the test methods listed in Subsection G.4 of this Section, including alternative sampling locations, prior to actual stack testing.

7. Initial compliance with the NO_x emission factors of Subsection D or E of this Section for affected point sources operating with a CEMS or PEMS that has been certified in accordance with Subsection H of this Section is not required. The certification of the CEMS or PEMS shall be considered demonstration of initial compliance.

8. The information required in this Subsection shall be provided in accordance with the compliance schedule in Subsection J of this Section.

H. Continuous Demonstration of Compliance. After the initial demonstration of compliance required by Subsection G of this Section, continuous compliance with the emission factors of Subsection D or E of this Section, as applicable, shall be demonstrated by the methods described in this Subsection.

1. The owner or operator of boilers that are subject to this Chapter and that have a maximum rated capacity that is equal to or greater than 80MMBtu/hour shall demonstrate continuous compliance as follows:

a. for boilers with a maximum rated capacity less than 250MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, calibrate, maintain, and operate an oxygen monitor to measure oxygen concentration; and

iii. in order to continuously demonstrate compliance with the NO_x limits of Subsection D or E of this Section, implement procedures to operate the boiler within the fuel and oxygen limits established during the initial compliance run in accordance with Subsection G.4 of this Section;

b. for boilers with a maximum rated capacity equal to or greater than 250MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure gas and/or liquid fuel usage. For coal-fired boilers, belt scales or an equivalent device shall be provided;

ii. install, calibrate, maintain, and operate a diluent (either oxygen or carbon dioxide) monitor. The monitor shall meet all of the requirements of performance specification 3 of 40 CFR 60, appendix B;

iii. install, calibrate, maintain, and operate a NO_x CEMS to demonstrate continuous compliance with the NO_x emission factors of Subsection D or E of this Section, as applicable. The CEMS shall meet all of the requirements of 40 CFR 60.13 and performance specification 2 of 40 CFR 60, appendix B; and

iv. install, calibrate, maintain, and operate a CO monitor. The monitor shall meet all of the requirements of performance specification 4 of 40 CFR 60, appendix B.

v. alternatively to Subsection H.1.b. ii - iv of this Section, for demonstration of continuous compliance, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS to predict NO_x, diluent (O₂ or CO₂), and CO emissions for each affected point source. As an alternative to using the PEMS to monitor diluent (O₂ or CO₂), a monitor for diluent according to Subsection H.1.b.ii of this Section or similar alternative method approved by the administrative authority may be used. The PEMS shall be certified while operating on primary boiler fuel and, separately, on any alternative fuel. The certification shall be in accordance with EPA documents, "Example Specifications and Test Procedures for Predictive Emission Monitoring Systems" and "Predictive Emission Monitoring System to Determine NO_x and CO Emissions from an Industrial Furnace" that are located on the EPA website in the emission monitoring section.

2. The owner or operator of process heater/furnaces that are subject to this Chapter and that have a maximum rated capacity that is equal to or greater than 80MMBtu/hour shall demonstrate continuous compliance as follows:

a. for process heater/furnaces with a maximum rated capacity less than 250MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, calibrate, maintain, and operate an oxygen monitor to measure oxygen concentration; and

iii. in order to continuously demonstrate compliance with the NO_x limits of Subsection D or E of this Section, implement procedures to operate the process heater/furnace within the fuel and oxygen limits established during the initial compliance run in accordance with Subsection G.4 of this Section;

b. for process heater/furnaces with a maximum rated capacity equal to or greater than 250MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, certify, maintain, and operate an oxygen or carbon dioxide diluent monitor in accordance with the requirements of Subsection H.1.b.ii of this Section;

iii. install, certify, maintain, and operate a NO_x CEMS in accordance with the requirements of Subsection H.1.b.iii of this Section; and

iv. install, certify, maintain, and operate a CO monitor in accordance with the requirements of Subsection H.1.b.iv of this Section; or

v. alternatively to Subsection H.2.b.ii - iv of this Section, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS in accordance with the requirements of Subsection H.1.b.v of this Section.

3. The owner or operator of stationary gas turbines that are subject to this Chapter and that have a megawatt rating based on heat input that is equal to or greater than 10 MW shall demonstrate continuous compliance as follows:

a. for stationary gas turbines with a megawatt rating based on heat input less than 30 MW:

i. if the stationary gas turbine uses steam or water injection to comply with the NO_x emission factors, install, calibrate, maintain, and operate a continuous system to monitor and record the average hourly fuel and steam or water consumption and the water or steam to fuel ratio. To demonstrate continuous compliance with the appropriate

emission factor, the stationary gas turbine shall be operated at the required steam-to-fuel or water-to-fuel ratio as determined during the initial compliance test;

ii. for other stationary gas turbines, install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage. Compliance with the emission factors of Subsection D or E of this Section shall be demonstrated by operating the turbine within the fuel limits established during the initial compliance run in accordance with Subsection G.4 of this Section; and

iii. alternatively to Subsection H.3.a.i or ii of this Section, an owner or operator may choose to comply with the requirements of Subsection H.3.b of this Section to demonstrate continuous compliance with the limits of Subsection D or E of this Section; and

b. for stationary gas turbines with a megawatt rating based on heat input of 30 MW or greater:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, certify, maintain, and operate an oxygen or carbon dioxide diluent monitor in accordance with the requirements of Subsection H.1.b.ii of this Section;

iii. install, certify, maintain, and operate a NO_x CEMS in accordance with the requirements of Subsection H.1.b.iii of this Section; and

iv. install, certify, maintain, and operate a CO monitor in accordance with the requirements of Subsection H.1.b.iv of this Section; or

v. alternatively to Subsection H.3.b.ii - iv of this Section, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS in accordance with the requirements of Subsection H.1.b.v of this Section.

4. The owner or operator of stationary internal combustion engines that are subject to this Chapter and have a horsepower rating of 300 Hp or greater for rich-burn engines or 1500 Hp or greater for lean-burn engines shall demonstrate continuous compliance as follows:

a. for stationary internal combustion engines, install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage and demonstrate continuous compliance by performing biennial stack tests for NO_x and CO in accordance with the methods specified in Subsection G.4 of this Section; or

b. an owner or operator may choose to comply with the requirements of Subsection H.3.b of this Section to demonstrate continuous compliance with the limits of Subsection D or E of this Section.

5. A CEMS unit may be used to monitor multiple point sources provided that each source is sampled at least once every 15 minutes and the arrangement is approved by the administrative authority.

6. Existing instrumentation for any requirement in this Subsection shall be acceptable upon approval of the department.

7. For any affected point source that uses a chemical reagent for reduction of NO_x, a NO_x CEMS, in accordance with Subsection H.1.b.iii of this Section, and a CO monitor, in accordance with Subsection H.1.b.iv of this Section, shall be provided.

8. For boilers or process heater/furnaces that are covered by this Chapter, that discharge through a common stack, and where the combined heat input is greater than

250MMBtu, a NO_x CEMS, in accordance with Subsection H.1.b.iii of this Section, and a CO monitor, in accordance with Subsection H.1.b.iv of this Section, shall be provided.

9. The owner or operator of any affected point source firing gaseous fuel for which a fuel multiplier from Subsection D.7 of this Section is used shall sample, analyze, and record the fuel gas composition on a daily basis or on an alternative schedule approved by the administrative authority. If an owner or operator desires to use an alternative sampling schedule, he shall specify a sampling frequency in his permit application and provide an explanation for the alternative schedule. Fuel gas analysis shall be performed according to the methods listed in Subsection G.4.g of this Section, or other methods that are approved by the administrative authority. A gaseous fuel stream containing 99 percent H₂ and/or CO by volume or greater may use the following procedure to be exempted from the sampling and analysis requirements of this Subsection:

a. a fuel gas analysis shall be performed initially using the test methods in Subsection G.4.g of this Section to demonstrate that the gaseous fuel stream is 99 percent H₂ and/or CO by volume or greater; and

b. the owner or operator shall certify that the fuel composition will continuously remain at 99 percent H₂ and/or CO by volume or greater during its use as a fuel to the point source.

10. The owner or operator of any low ozone season capacity factor boiler or process heater/furnace for which an exemption is granted shall install, calibrate, and maintain a totalizing fuel meter, with instrumentation approved by the administrative authority, and keep a record of the fuel input for each affected point source during each ozone season. The owner or operator of any boiler or process heater/furnace covered under this exemption shall notify the administrative authority within seven days if the Btu-per-ozone season limit is exceeded. If the Btu-per-ozone season limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the department of the loss of the exemption, the owner or operator shall submit a permit modification detailing how to meet the applicable emission limit as soon as possible, but no later than 24 months, after exceeding the Btu-per-ozone season limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation of the required control equipment. This schedule shall be subject to the review and approval of the administrative authority.

11. The owner or operator of any affected point source that is granted an exemption for operating less than 400 hours during the ozone season shall install, calibrate, and maintain a nonresettable, elapsed run-time meter to record the operating time in order to demonstrate compliance. The owner or operator shall notify the administrative authority within seven days if the hours-per-ozone season limit is exceeded. If the hour-per-ozone season limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the department of the loss of the exemption, the owner or operator shall submit a permit modification detailing how to meet the applicable emission limit as soon as possible, but no later than 24 months, after exceeding the limit. Included with this permit

modification, the owner or operator shall submit a schedule of increments of progress for the installation and operation of the required control equipment. This schedule shall be subject to the review and approval of the administrative authority.

I. Notification, Recordkeeping, and Reporting Requirements

1. The owner or operator of an affected point source shall follow the guidelines in Louisiana Air Permit General Condition VIII for any compliance testing conducted under Subsection G of this Section and any CEMS or PEMS performance evaluation conducted under Subsection H of this Section.

2. The owner or operator of an affected point source required to demonstrate continuous compliance in accordance with Subsection H of this Section shall submit a written report, in accordance with Louisiana Air Permit General Condition XI, for any noncompliance of the applicable emission limitations of Subsection D or E of this Section.

3. The owner or operator of an affected point source shall maintain records of all continuous monitoring, performance test results, hours of operation, and fuel usage rates for each affected point source. Such records shall be kept for a period of at least five years and shall be made available upon request by authorized representatives of the administrative authority. The emission monitoring (as applicable) and fuel usage records for each affected point source shall be recorded and maintained:

- a. hourly for affected point sources complying with an emission factor on an hourly basis;
- b. daily for affected point sources complying with an emission factor enforced on a daily average basis or on a 30-day rolling average basis; and
- c. monthly for affected point sources exempt from the emission specifications based on ozone season heat input or hours of operation per ozone season.

4. The owner or operator shall maintain the following records:

- a. records for a facility-wide averaging plan in accordance with Subsection E.1.i of this Section;
- b. records approved for a trading plan in accordance with Subsection E.2 of this Section; and
- c. records in accordance with Subsection H.7, 8, 9, and 10 of this Section.

5. Ammonia emissions resulting from the operation of a NO_x control equipment system shall be reported annually in accordance with LAC 33:III.5107.A.

6. The owner or operator shall notify, submit, or maintain any other records that are considered appropriate and requested by the administrative authority.

J. Compliance Schedule

1. The owner or operator of an affected facility shall make an effort to accomplish NO_x emission reductions as soon as possible after this Chapter is promulgated so that an early evaluation of the effectiveness of these regulations can be made.

2. The owner or operator of an affected facility shall modify and/or install and bring into normal operation NO_x control equipment and/or implement NO_x control techniques in accordance with this Chapter by no later than May 1, 2005.

3. In accordance with Subsection G of this Section, the owner or operator shall test all NO_x abatement equipment and all NO_x control techniques to demonstrate initial compliance with this Chapter within 60 days of achieving normal operation, but in no event later than 180 days after initial start-up. All initial compliance testing shall be completed by November 1, 2005.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on September 25, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. 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. Persons commenting should reference this proposed regulation by AQ215. Such comments must be received no later than October 2, 2001, 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) 765-0389. 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 AQ215.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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: Emission of Nitrogen Oxides—Control**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is one government-owned utility that only operates on a contingency basis and could possibly incur compliance costs. Information on the cost burden and any additional governmental units that may be affected is not available.

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)

The initial survey sent to 48 industries projected implementation costs at about \$72 M. However, this figure is considerably understated. Although the survey response was almost 100%, fewer than half the respondents provided cost information. Furthermore, the survey queried point sources emitting more than 50 tons per year (tpy), although a facility could have several point sources whose combined emissions exceed 50 tpy, therefore, coming under the rule. Additionally, there will be annual operating costs and costs associated with non-routine plant turnaround operations.

Subsequent revisions to the original draft of the rule have substantially increased compliance costs. One entity alone is now estimating its implementation costs for all facilities could exceed \$300 M. So, while very little cost data for the revised proposed rule is available, implementation is expected to be very expensive. Detailed cost breakdowns for the initial version of the rule are attached.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule affects nine parishes in southern Louisiana. Within that area competition would be unaffected. However, many of the facilities sell their products statewide and some are international marketers. Consequently, if they have to compete against companies operating in unregulated areas, they may be at a competitive disadvantage. If compliance costs become too high, facilities with the flexibility to do so may consider relocating, thus negatively impacting employment and the local economy.

James H. Brent
Assistant Secretary
0108#064

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of The Governor
Division of Administration**

**EPO Plan of Benefits—Prescription Drug Benefits
(LAC 32:V.325 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, the Office finds that it is necessary to revise and amend provisions of the EPO Plan Document. The reason for this action is to avoid disruption of prescription drug therapy for covered employees, retirees, and their dependents.

Accordingly, the Office of Group Benefits hereby gives Notice of Intent to adopt the following Rule:

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§325. Prescription Drug Benefits

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

1. - 10. ...

11. drugs for treatment of impotence, except following surgical removal of the prostate gland; and

12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program health benefits identification card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1000 of co-insurance/co-payments for eligible prescription drug expenses, the Plan Member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

NOTE: For the period July 1, 2001 through December 31, 2001, the out-of-pocket threshold will be \$500 per person. On January 1, the threshold will be re-set to \$1000 for calendar year 2002 and each subsequent year.

2. ...

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

a. up to a 34-day supply of drugs may be dispensed at one time; and

b. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

6. *Brand drug*—the trademark name of a drug approved by the U. S. Food and Drug Administration.

7. *Generic drug*—a chemically equivalent copy of a brand drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), amended LR 27:718 (May 2001), LR 27:

**Chapter 7. Schedule of Benefits – EPO
§701. Comprehensive Medical Benefits**

A. ...

1. - 3. ...

4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50 percent of drug costs at point of purchase.
Maximum Co-Payment	\$40 per Prescription Dispensed
Out-of-Pocket Threshold	\$1000 per Person, per Calendar Year
Co-Pay after Threshold Is Reached:	
Brand	\$15
Generic	No Co-Pay
Plan Pays Balance of Eligible Expense	
NOTE: Out-of-pocket threshold - \$500 per person, for the period July 1 – December 31, 2001	
Non-Network Pharmacy	Member pays full drug costs at point of purchase.
In-State	Reimbursement Limited to 50% of Amount Payable by Plan at Network Pharmacy
Out-of-State	Reimbursement Limited to 80% of Amount Payable by Plan at Network Pharmacy

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:719 (May 2001), LR 27:

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 on Friday, September 28, 2001.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: EPO Plan of Benefits—Prescription
Drug Benefits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefits modification will reduce pharmacy expenditures of the Program approximately by \$3.5 million during FY 01-02; \$3.9 million during FY 02-03; and \$4.4 million during FY 03-04. It is anticipated that there will be approximately \$3,000 in printing and postage costs associated with the implementation of this rule change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governmental units will not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule change will change the current 3 tier co-payment structure for prescription drugs into a 50% coinsurance plan with the member paying for 50% of any given drug up to a maximum of \$40 per prescription.

Those EPO participants that utilize the prescription drug benefits will pay 50% of all prescription drugs with a \$40 maximum per prescription instead of a \$50 maximum per prescription. There is a \$1,000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached the Plan Member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0108#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of The Governor
Division of Administration**

**PPO Plan of Benefits—Prescription Drug Benefits
(LAC 32:III.323 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, the Office finds that it is necessary to revise and amend provisions of the PPO Plan Document. The reason for this action is to avoid disruption of prescription drug therapy for covered employees, retirees, and their dependents.

Accordingly, the Office of Group Benefits hereby gives Notice of Intent to adopt the following Rule:

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§323. Prescription Drug Benefits

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

1. - 10. ...

11. drugs for treatment of impotence, except following surgical removal of the prostate gland; and

12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program health benefits identification card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1000 of co-insurance/co-payments for eligible prescription drug expenses, the plan member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

NOTE: For the period July 1, 2001 through December 31, 2001, the out-of-pocket threshold will be \$500 per person. On January 1, the threshold will be re-set to \$1000 for calendar year 2002 and each subsequent year.

2. ...

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

a. up to a 34-day supply of drugs may be dispensed at one time; and

b. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

6. *Brand drug*—the trademark name of a drug approved by the U. S. Food and Drug Administration.

7. *Generic drug*—a chemically equivalent copy of a brand drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), amended LR 27:720 (May 2001), LR 27:

Chapter 7. Schedule of Benefits—PPO

§701 Comprehensive Medical Benefits

A. ...

1. - 3. ...

4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50 percent of drug costs at point of purchase.
Maximum Co-Payment	\$40 per Prescription Dispensed
Out-of-Pocket Threshold	\$1000 per Person, per Calendar Year
Co-Pay after Threshold Is Reached:	
Brand	\$15
Generic	No Co-Pay
Plan Pays Balance of Eligible Expense	
NOTE: Out-of-pocket threshold - \$500 per person, for the period July 1 - December 31, 2001	
Non-Network Pharmacy	Member pays full drug costs at point of purchase.
In-State	Reimbursement Limited to 50% of Amount Payable by Plan at Network Pharmacy
Out-of-State	Reimbursement Limited to 80% of Amount Payable by Plan at Network Pharmacy

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:722 (May 2001), LR 27:

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 on Friday, September 28, 2001.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: PPO Plan of Benefits—Prescription Drug Benefits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefits modification will increase pharmacy expenditures of the Program approximately \$1.4 million during FY 01-02; \$1.57 million during FY 02-03; and \$1.75 million during FY 03-04. It is anticipated that there will be approximately \$3,000 in printing and postage costs associated with the implementation of this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change will change the current 3 tier co-payment structure for prescription drugs into a 50% coinsurance plan with the member paying for 50% of any given drug up to a maximum of \$40 per prescription.

Those PPO participants that utilize the prescription drug benefits will pay 50% of all prescription drugs with a \$40 maximum per prescription instead of a set copayment of \$8/\$25/\$40 per prescription. There is a \$1,000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached the Plan Member will be responsible for a \$15 co-pay for brand name drug, with no co-pay for generic drugs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

Competition and employment will not be affected.

A. Kip Wall Robert E. Hosse
Chief Executive Officer General Government Section Director
0108#042 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Patients' Compensation Fund Oversight Board**

**Medical Reimbursement Schedule and Mileage
(LAC 37:III.Chapter 19)**

The Patient's Compensation Fund Oversight Board proposes to amend LAC 37:III.Chapter 19, as follows, as authorized by the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Previously, the Patient's Compensation Fund was required to reimburse healthcare providers the total amount of their charges for services rendered to claimants after the date of the malpractice, and those charges are increasing. In an effort to preserve its fiscal integrity, the Fund now proposes to adopt the reimbursement schedule promulgated by the Louisiana Department of Labor as the maximum reimbursement for such services. Also, the Patient's Compensation Fund rules previously did not provide for any payment for mileage for vehicles furnished by the Fund, and the Fund now proposes to codify the existing practice of paying partial reimbursement in those cases.

The Patient's Compensation Fund Oversight Board amends LAC 37:III.Chapter 19, to incorporate the Louisiana Department of Labor reimbursement schedule as the maximum allowable reimbursement to providers for medical services provided to claimants and to provide for mileage reimbursement for vehicles provided to claimants by the Patient's Compensation Fund.

**Title 37
INSURANCE**

**Part III. Patient's Compensation Fund Oversight Board
Chapter 19. Future Medical Care and Related
Benefits**

§1901. Scope of Chapter

A. ...

B. The rules of Chapter 19 shall be applicable to all malpractice claims, including those brought under R.S. 40:1299.39.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1566 (December 1993), amended LR 27:

§1903. Definitions

Future Medical Care and Related Benefits—all reasonable medical, surgical, hospitalization, physical rehabilitation, and custodial services, and includes drugs, prosthetic devices, and other similar materials reasonably necessary in the provision of such services. The fund's obligation to provide these benefits or to reimburse the claimant for those benefits is limited to the lesser of the amount billed therefor

or the maximum amount allowed under the reimbursement schedule.

* * *

Reimbursement Schedule—the most recent reimbursement schedules promulgated by the Department of Labor, Office of Workers' Compensation pursuant to R.S. 23:1034.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1566 (December 1993), amended LR 27:

§1905. Obligation of the Fund

A. The fund shall provide and/or fund the cost of all future medical care and related benefits in the amounts provided herein, after the date of the accident and continuing as long as medical or surgical attention is reasonably necessary, that are made necessary by the health care provider's malpractice, pursuant to a final judgment issued by a court of competent jurisdiction or as agreed to in a settlement reached between a patient and the fund, unless the patient refuses to allow the future medical care and related benefits to be furnished.

B. The fund acknowledges that a court is required neither to choose the best medical treatment nor the most cost-efficient treatment for a patient. The intent of Chapter 19 is to distinguish between those devices which are reasonably necessary to a patient's treatment and those which are devices of convenience or non-essential specialty items for a patient, and to provide for the maximum allowable reimbursement for those necessary future medical care and related benefits.

C. Pursuant to the Act, the board has been, expressly and/or implicitly, vested with the responsibility and authority for the management, administration, operation, and defense of the fund and, as a prudent administrator, it must insure that all future medical care costs and related benefits are reasonable and commensurate with the usual and customary costs of such care in the patient's community. Therefore, the amount paid by the fund for future medical care and related benefits shall be the lesser of the amount billed for said care or benefit or the maximum amount allowed under the reimbursement schedule.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1566 (December 1993), amended LR 27:

§1907. Claims for Future Medical Care and Related Benefits

A. ...

B. If a patient's claim for future medical care and related benefits is extremely complex, is disputed or is in excess of the reimbursement schedule, then the fund may refer the matter to medical or other experts or to its counsel for review or litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1566 (December 1993), amended LR 27:

§1909. Attorneys; Medical Experts; Architects; Adjusters

A.1. An attorney chosen to represent the fund pursuant to §1907 shall be an independent contractor of the state of Louisiana, shall meet all applicable requirements for an outside contractor retained by the state of Louisiana, and shall be chosen by the Risk Director (or his successor) or his designee. The attorney shall be licensed to practice law in the state of Louisiana.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D. (3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR.19:1566 (December 1993), amended LR 27:

§1911. Examinations; Notice Requirements

A. - B. ...

C. Within 30 days after the examination, the patient shall be compensated, by the party requesting the examination, for all necessary and reasonable expenses incidental to submitting to the examination, including the reasonable costs of travel, meals, lodging, or other direct expenses as provided elsewhere in these regulations.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D. (3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR19:1567 (December 1993), amended LR 27:

§1913. Choice of Health Care Provider

A. A patient entitled to future medical care and related benefits, as determined under Chapter 19, shall be entitled to evaluation, diagnosis, and treatment by the health care providers of the patient's choice provided, however, that the health care provider rendering such evaluation, diagnosis, or treatment shall be licensed to practice medicine in Louisiana or by the state in which the patient resides. Notwithstanding the patient's right to choose his health care provider, the amount which the fund shall be required to pay or reimburse any healthcare provider shall be the lesser of the provider's billed amount or the reimbursement schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1567 (December 1993), amended LR 27:

§1915. Psychological /Psychiatric Treatment and Counseling

A. The fund will provide and/or fund, at the lesser of the billed amount or the maximum amount allowed under the reimbursement schedule, psychiatric/psychological testing, evaluation, diagnosis and treatment of a patient entitled to future medical care and related benefits, as determined under Chapter 19, where these medical services are reasonable and are made necessary by the health care provider's malpractice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1567 (December 1993), amended LR 27:

§1917. Nursing Care; Sitter Care

A. The fund will provide and/or fund, at the lesser of the billed amount or the maximum amount allowed under the reimbursement schedule, inpatient or outpatient nursing or

sitter care when such care is required to provide reasonable medical, surgical, hospitalization, physical rehabilitation, or custodial services made necessary by the health care provider's malpractice, subject to the following limitations.

1. - 4. ...

B.1. Providers of nursing or sitter care shall be funded, at the lesser of the billed amount or the maximum amount allowed under the reimbursement schedule. If the reimbursement schedule contains no applicable rate for such care, then the care shall be funded at the lesser of the billed amount or the usual and customary rate charged by similarly licensed or qualified healthcare providers in a patient's home state, city, or town. However, nursing or sitter care provided by members of the patient's family or household will be funded at a rate not to exceed \$6 per hour regardless of the licensure or qualification of the provider.

2. However, notwithstanding the foregoing, future nursing or sitter care provided, after the effective date of the amended rules which provide for inflationary adjustments, by members of the patient's family or household will be funded at a rate not to exceed the equivalent of \$6 per hour plus inflation at the annual consumer price index published by the United States Bureau of Labor Statistics for each year between the year of original publication of the rate (1993) and the date of service, regardless of the licensure or qualification of the provider.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D. (3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1567 (December 1993), amended LR 27:

§1923. Ancillary Cost; Mileage

A. ...

B.1. Vehicle not provided by the fund: The fund will reimburse a patient (or the patient's family or care givers) entitled to future medical care and related benefits under §1923 for actual mileage to and from physician appointments or treatment at a rate not to exceed \$.24 per mile or the current mileage rate allowance under applicable state guidelines.

2. Vehicle provided by the fund.

a. Fund Reimbursement. Notwithstanding Subsection B.1 or §1921.C, above, when the fund has furnished the vehicle to a patient, the fund will reimburse that patient (or that patient's family or care givers) who is entitled to future medical care and related benefits under §1923, for actual mileage to and from physician appointments or other testing or treatment, at a rate equal to fifty percent of the then applicable mileage rate.

b. Fund Credit for Non-Covered Usage. When the vehicle has been provided by the fund and the fund is required to reimburse for medically-related usage, the fund shall, however, be entitled to a credit, at the same mileage rate, for any use of the vehicle which is not eligible for reimbursement.

C. The level of expense reimbursement pursuant to §1923 shall not exceed the maximum allowable expenses under applicable state guidelines set forth in the Travel Regulations, P.P.M. 49, Louisiana Register, Vol. 16, Number 7, p. 582 or, in the case of reimbursement under Subsection B.2 above, fifty percent of that amount .

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1568 (December 1993), amended LR 27:

Family Impact Statement

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.

Interested persons may submit written comments to Kenny Aucoin, 650 North Sixth Street, Baton Rouge, LA 70802 and/or to Larry M. Roedel, General Counsel, Patient's Compensation Fund Oversight Board, 8440 Jefferson Highway, Third Floor, Baton Rouge, LA 70809. All comments must be submitted by 4:30 p.m., September 28, 2001.

Kenny Aucoin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Reimbursement Schedule and Mileage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amendments pertain to the payments for medical services and supplies and mileage reimbursement in limited cases. It is estimated that the costs to implement the proposed rule amendments will not exceed \$1,000. The costs will include purchase of copies of the reimbursement schedule to be used, copy charges and postage for mailing a general notice to the claimants, and administrative overhead expenses which will be paid by the Patient's Compensation Fund, R.S. 40:1299.44 et seq., from statutorily dedicated funds available in the FY 01-02 budget. The annual savings to the State (the PCF) from the adoption of the reimbursement schedule is approximately \$2,967,513. No savings or additional costs are expected from the mileage reimbursement amendments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units from implementation of the proposed rule amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of the reimbursement schedule affects only payment to healthcare providers and therefore has no cost or economic benefit to claimants. The mileage reimbursement amendments incorporate existing policy and therefore have no effect on the claimants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Patient's Compensation Fund Oversight Board anticipates no effect on competition as a result of adopting the proposed rule amendments. However, since the rule results in a reduction of payments to private healthcare providers, there is a potential effect on employment.

Kenneth Aucoin
Executive Director
0107#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Comprehensive Rule Revisions (LAC 46:XXXIII)

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.103, "Evidence of Graduation," LAC 46:XXXIII.116, "Reconsideration of Adverse Sanctions," LAC 46:XXXIII.301, "Advertising and Soliciting by Dentists," LAC 46:XXXIII.314, "Dental Services at Locations Other than Dental Offices," LAC 46:XXXIII.316 "Disclosure of Financial Interests by Referring Dental Health Care Provider," LAC 46:XXXIII.701, "Authorized Duties," LAC 46:XXXIII.710, "Administration of Local Anesthesia for Dental Purposes," LAC 46:XXXIII.903, "Initiation of Proceedings," LAC 46:XXXIII.907, "Notice of Hearing," LAC 46:XXXIII.909, "Response to Complaint; Notice of Representation," and add LAC 46:XXXIII.512, "Sanctions" and LAC 46:XXXIII.720, "Sanctions." No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§103. Evidence of Graduation

A. - C. ...

D. The requirement that an educational program accredited by the Commission on Dental Accreditation of the American Dental Association be at a minimum of two years in length means a continuing program which is at the same institution and is for a minimum of two years. The board does not accept the accumulation of programs which are less than two years in length to satisfy this requirement.

E. In regards to dentists trained in foreign countries, the board requires those dentists to practice in the field in which they obtained the two years of post-graduate training. In other words, if a foreign trained dentist completes an approved program in endodontics, he or she must limit their practice to endodontics. If that dentist studies in a general practice residency program, he or she must practice general dentistry.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 10:88 (February 1984), amended by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998), LR 26:488 (March 2000), LR 27:

§116. Reconsideration of Adverse Sanctions

A. - G. ...

H. Any person desiring to file an application for a reconsideration with the board shall be permitted to do so only after 12 months following the board's decision or ratification of a consent decree and only once every 12 months thereafter, unless new and compelling information becomes available. If an application is denied, then that

person must wait at least until the expiration of 12 months from the date appearing on the board's denial letter before submitting a subsequent application.

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), LR 27:

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - J. ...

K. Appendages. In addition to those appendages required by law pertaining to one's business entity such as professional dental corporation (P.C.) or dental limited liability company (L.L.C.), dentists may only use those abbreviations or appendages as specified under R.S. 37:771 or other degrees earned from accredited colleges or universities after their names. Fellowships, awards, membership in academies, or non-degreed boards may be spelled out in their entirety under one's name, but not appended to the name so as to avoid confusion to the consumer. However, fellowships, awards, memberships in academies and non-degreed boards may be appended to names in newsletters which are not intended for publication or dissemination to the public but which remain peculiar to dentists or dental hygienists. An example is the "Pelican Pouch" which is a newsletter which goes out to members of the Academy of General Dentistry. It is permissible for persons to append "F.A.G.D." after their names in newsletters such as this.

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

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

§314. Dental Services at Locations Other than Dental Offices

A. - B. ...

C. However, the requirements of this rule do not apply to dentists providing dental health care services at locations within their immediate area. For purposes of this rule immediate area is defined as within 25 miles from the dentist's office.

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 23:1525 (November 1997), amended LR 25:513 (March 1999), LR 27:

§316. Disclosure of Financial Interests by Referring Dental Health Care Provider

A. This rule is authorized and mandated by R.S. 37:1744 and R.S. 37:1745 and a violation of §316 will constitute a violation of either R.S. 37:776 (A)(24) or R.S. 37:777(A)(18).

B. - F. ...

G. A dental healthcare provider may make a referral of a patient outside the dental healthcare provider's group

practice for provision of healthcare items or services by other healthcare providers in which the referring dental healthcare provider has a financial interest as defined in Paragraph C of this section provided that the dental healthcare provider discloses in advance to the patient his/her financial interest. This disclosure must be in writing and shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the dental healthcare provider's name, address, and telephone number;

2. the name and address of the healthcare provider to whom the patient is being referred by the dental healthcare provider;

3. the nature of the items or services which the patient is to receive from the healthcare provider to which the patient is being referred; and

4. the existence and nature of the dental healthcare provider's financial interest in the healthcare provider to which the patient is being referred.

H. The form of the disclosure required in this section may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

I. Notice to a patient given substantially in the form of "Disclosure of Financial Interest" form prescribed in the Appendix to this rule shall be presumptively deemed to satisfy the disclosure requirements of this section.

J. Proportionate Return on Investment Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §316 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise

generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

K. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVII or Title XIX of the Act, including those payments and practices sanctioned by the Secretary of the United States Department of Health and Human Services, through the Office of Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 C.F.R. §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §316 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and mandated by R.S. 37:1744.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1527 (November 1997), amended LR 25:512 (March 1999), LR 27:

Chapter 5. Dental Assistants

§512. Sanctions

A. Any dental assistant or expanded duty dental assistant who administers nitrous oxide inhalation anesthesia is subject to severe sanctions for practicing dentistry without a license. The dentist under whose instructions he or she performed the procedure will be subject to severe sanctions up to and including revocation of his or her dental license.

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 27:

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. - B. ...

1. - 10. ...

11. the administration of parenteral, intravenous (IV), inhalation sedative agent, or any general anesthetic agent.

C. - D. ...

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 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:

§710. Administration of Local Anesthesia for Dental Purposes

A. - E. ...

F. The permit to administer local anesthesia shall expire with the expiration of the dental hygienist's license to practice dental hygiene.

G. ...

H. deleted in its entirety

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 25:1476 (August 1999), LR 27:

§720. Sanctions

A. Any dental hygienist who administers nitrous oxide inhalation anesthesia is subject to severe sanctions up to and including revocation of his/her license to practice dental hygiene. The dentist under whose instructions he/she performed the procedure will be subject to severe sanctions up to and including revocation of his/her dental license.

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 27:

Chapter 9. Formal Adjudication

§903. Initiation of Proceedings

A. ...

B. Prior to the initiation of formal proceedings, the board shall, send correspondence to the licensee setting forth facts constituting legal cause under the law for administrative action and the statutory and/or regulatory provisions alleged to have been violated by the licensee. The correspondence shall be sent by certified, return receipt requested mail as well as by regular first class mail, or by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure at the licensee's most current address as reflected in the official records of the board advising the licensee that he is being offered an opportunity to participate in an informal conference with a dentist(s) board member(s) to show compliance with all lawful requirements for the retention of his license in conformity with R.S. 49:961(C), that he may request a record be made at his expense, and that he has a right to counsel. The licensee shall have 10 calendar days from receipt of notice to advise the board whether he wishes to participate in such a meeting and whether he wishes a record be made of such a meeting. Said meeting shall be held no less than 10 days nor more than 30 days following receipt of said request by the board.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (4), (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1317 (October 1993), amended LR 22:1218 (December 1996), LR 27:

§907. Notice of Hearing

A. ...

B. A written notice accompanied by the complaint of the time, date, and place of the scheduled hearing regarding the matters set forth in the complaint shall be sent to the respondent by certified mail, return-receipt-requested mail, by first class mail at the most current address for the respondent reflected in the official records of the board, or served by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure. This notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint. In the event respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the administrative complaint shall be deemed admitted and proven by clear and convincing evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), amended LR 22:25 (January 1996), LR 25:1476 (August 1999), LR 27:

§909. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the committee, on motion of the respondent may permit, the respondent may answer the complaint, admitting or denying each of the allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proved and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed admitted.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), LR 27:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Comprehensive Rule Revisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A cost 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 rulemaking changes. It is anticipated that these rule changes will be sent to licensees during the summer of 2001.

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 or 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
0108#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Training and Credentials
(LAC 46:LXIII.303)

Notice is hereby given in accordance with R.S. 49:950 et seq., that the Board of Examiners of Psychologists intends to amend the following rule related to acceptable doctoral programs in psychology.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 3. Training and Credentials

§303. Doctoral Programs in Psychology

A. A graduate of a doctoral program that is listed by the Association of State and Provincial Psychology Boards (ASPPB) and the National Register of Health Service Providers in Psychology's yearly joint publication of the Doctoral Psychology Programs Meeting Designation Criteria is recognized as holding a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology.

B. ...

C. A graduate of a doctoral program that is neither listed in Designate Doctoral Programs in Psychology nor accredited by the American Psychological Association must meet criteria 1 through 11 below.

1. Training in professional psychology is doctoral training offered in a regionally accredited institution of higher education.

2. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.

3. The psychology program must stand as a recognizable, coherent organizational entity within the institution.

4. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

5. The program must be an integrated, organized sequence of study.

6. There must be an identifiable psychology faculty and a psychologist responsible for the program.

7. The program must have an identifiable body of students who are matriculated in that program for a degree.

8. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology.

9. The program shall be an internal degree program (as opposed to an external degree program) unless it is either designated by the Association of State and Provincial Psychology Boards and the National Register or it is accredited by the American Psychological Association.

10. The doctoral program shall involve at least one continuous academic year of full-time residency on the campus of the institution at which the degree is granted.

11. The curriculum shall encompass a minimum of three academic years of full-time graduate study. The program of study shall typically include graduate coursework with a minimum of three semester hours (five quarter hours) in each of the following three areas: scientific and professional ethics and standards, research design and methodology, and statistics and methodology. In cases where the material from one of these areas was incorporated into other courses, the program director shall submit material to the Board indicating the educational equivalence of this requirement. Additionally, the core program shall require each student to demonstrate competence in each of the following substantive areas. This requirement typically will be met by including a minimum of three or more graduate semester hours (five or more graduate quarter hours) in each of the four substantive content areas. Graduates who cannot document competence in all substantive content areas (a-d below), may demonstrate competence by taking additional course work or examination, not to exceed one substantive content area.

a. Biological Bases Of Behavior. Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

b. Cognitive-Affective Bases Of Behavior. Learning, thinking, motivation, emotion.

c. Social Bases Of Behavior. Social psychology, group processes, organizational and systems theory.

d. Individual Difference. Personality theory, human development, abnormal psychology. In addition, all professional doctoral programs in psychology will include course requirements in specialty areas.

D. Graduates of foreign programs will be evaluated according to the following.

1. Graduates of foreign programs must meet the "substantial equivalent" of criteria C. 1-11 above. "Substantial equivalent" does not apply to graduates from colleges, universities, or professional schools in the United States, Canada, or any jurisdiction under the Association of State and Provincial Psychology Boards. The Board may "assess" a foreign applicant to recover expenses incurred in reviewing unusual credentials.

2. Applicants for licensure whose applications are based on graduation from foreign universities shall provide the Board with such documents and evidence to establish that their formal education is equivalent to a doctoral degree in psychology granted by a United States university that is regionally accredited. The applicant shall provide the Board with the following:

a. an original diploma or other certificate of graduation, which will be returned, and a photostatic copy of such a document, which shall be retained;

b. a transcript or comparable document of all course work completed;

c. a certified translation of all documents submitted in a language other than English;

d. satisfactory evidence of supervised experience;

e. evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the Board may require an applicant to file a copy of the dissertation itself; and

f. a statement prepared by the applicant based on the documents referred to in this section, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 13:181 (March 1987), amended LR 27:

The proposed rule amendments have no known impact on family, formation, stability or autonomy, as described in R. S. 49:972.

Interested persons may submit data, views, arguments, information or comments on the proposed Rule, in writing, to Brenda Ward, Executive Director, Board of Examiners of Psychologists, 8280 YMCA Plaza Drive, Building 8-B, Baton Rouge, LA 70810, within 20 days of the date of this notice.

Beverly A. Stubblefield, Ph.D.
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Training and Credentials

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost anticipated to implement this rule is the \$80 cost of publishing it in the *Louisiana Register*. The Louisiana State Board of Examiners of Psychologists publishes a newsletter which is distributed to all Louisiana Licensed psychologists. This proposed rule change has been published in the current edition of that newsletter. No adjustment was necessary in the workload or printing of this rule in that publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that this proposed rule's effect on revenue collections for the Louisiana State Board of Examiners of Psychologists would be minimal. Additional income would be derived from the application fees of one or two applicants each year who would qualify for candidacy under this provision. Additional income would also be derived from the yearly license renewal of those candidates licensed under this provision.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the proposed rule will have no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the proposed rule will have no effect on competition and employment in the public and/or private sectors.

Brenda C. Ward
Executive Director
0108#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Home and Community Based Services Waiver Program
Mentally Retarded/Developmentally Disabled Waiver
Reimbursement Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services provides reimbursement for personal care attendant (PCA), supervised independent living (SIL) and respite services provided to recipients in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program. The bureau adopted emergency rules in July 1995 to reduce the reimbursement rates paid for PCA, SIL and respite services provided to MR/DD waiver recipients (*Louisiana Register*, Volume 21, Number 7). The provisions contained in the July 20, 1995 emergency rules were subsequently repealed by an emergency rule adopted in October 1995 (*Louisiana Register*, Volume 21, Number 10).

As a result of the allocation of additional funds by the legislature during the 2001 Regular Session, the bureau increased the reimbursement rates for certain designated procedure codes for personal care attendant, respite and supervised independent living services (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2001 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 Community Supports and Services increases the reimbursement rates in the Mentally Retarded/Developmentally Disabled Waiver for certain designated procedure codes for personal care attendant, respite and supervised independent living services as follows:

Z0002	PCA	\$10.30
Z0011	PCA - High Need	\$11.64
Z0003	Respite	\$10.30
Z0013	Respite - High Need	\$11.64
Z0004	Respite - Center	\$6.66
Z0014	Respite - Center - High Need	\$11.64
Z0053	SIL Day Companion	\$7.38
Z0055	SIL Night Companion	\$6.35

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030.

She is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, September 27, 2001 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: Home and Community Based Services
Waiver Program—Mentally Retarded/Developmentally
Disabled Waiver—Reimbursement Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$659,059 for SFY 2001-02, \$678,769 for SFY 2002-03, and \$699,133 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 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 \$1,564,406 for SFY 2001-02, \$1,611,276 for SFY 2002-03, and \$1,659,614 for SFY 2003-04.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will increase payments to providers of personal care attendant, respite and supervised independent living services by approximately \$2,223,345 for SFY 2001-02, \$2,290,045 for SFY 2002-03, and \$2,358,747 for SFY 2003-04.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition and employment.

Ben A. Bearden
Director
0108#090

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**

**Emergency Medical Transportation Program
Emergency Ambulance Transportation Services
Reimbursement Increase**

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 pursuant to Title XIX of the Social Security Act. This proposed rule is

adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the legislature during the 2000 Second Special Session, the bureau adopted a Rule in February 2001 to restore the 7 percent reduction previously made to the reimbursement rates for emergency ambulance transportation services and increase the base rate for these services by 2 percent (*Louisiana Register*, Volume 27, Number 2).

As a result of the allocation of additional funds by the legislature during the 2001 Regular Session, the bureau increased the reimbursement for certain designated procedure codes for emergency ambulance transportation services by 1.4 percent (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2001 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 increases the reimbursement for the following designated procedure codes for emergency ambulance transportation services by 1.4 percent:

A0368	Emergency transport, no specialized ALS services
A0380	Emergency loaded miles, BLS
A0382	Routine disposable supplies, BLS
A0390	Non-Emergency loaded miles, ALS
A0394	Disposable supplies, ALS
A0398	Oxygen & oxygen supplies, ALS or BLS
A0422	Ambulance 02 life sustaining
A0427	ALS-Emergency
A0429	BLS-Emergency transport
A0433	ALS2
A0434	Speciality care transport

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, September 27, 2001 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: Emergency Medical Transportation Program—Emergency Ambulance Transportation Services—Reimbursement Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$176,747 for SFY 2001-02, \$181,988 for SFY 2002-03, and \$187,447 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 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 \$419,484 for SFY 2001-02, \$432,006 for SFY 2002-03, and \$444,967 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase payments (approximately 1.4 percent) to providers of emergency ambulance services by approximately \$596,111 for SFY 2001-02, \$613,994 for SFY 2002-03, and \$632,414 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0108#087

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility
Elimination of Resource Test

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 pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted the state and federal requirements and procedures governing the

determination of eligibility of persons applying for coverage under Title XIX of the Social Security Act which were incorporated in the Medicaid Eligibility Manual (*Louisiana Register*, Volume 22, Number 5). The applicant's income and resources are currently considered in the determination of Medicaid eligibility. Resources are defined as cash assets or assets that can be converted to cash, such as bank accounts, stocks, bonds, automobiles and property. The bureau proposes to amend Sections H and I of the May 20, 1996 Rule and eliminate the consideration of resources in determining Medicaid eligibility for the Low Income Families with Children and the child related Medically Needy Programs.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. It is anticipated that this proposed rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972. This proposed rule will allow parents with minor children to receive healthcare benefits and supports that may not otherwise be available to the family.

Proposed Rule

Effective for applications taken on or after November 20, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing eliminates the consideration of resources in determining Medicaid eligibility for the Low Income Families with Children and the child related Medically Needy Programs.

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, September 27, 2001 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: Medicaid Eligibility—Elimination of Resource Test

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 \$74,660 for SFY 2001-02, \$126,310 for SFY 2002-03, and \$130,099 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 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 \$177,148 for SFY 2001-02, \$299,836 for SFY 2002-03, and \$308,831 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase payments to providers of Medicaid services by approximately \$251,688 for SFY 2001-02, \$426,146 for SFY 2002-03, and \$438,930 for SFY 2003-04. This proposed rule will eliminate the resource requirements for Medicaid eligibility for the Low Income Families with Children and the child related Medically Needy Programs and allow parents (approximately 230-250) with minor children to receive healthcare benefits and supports that may not otherwise be available to the family.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0108#088

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

Medical Transportation Services
Non-Emergency Ambulance Services
Reimbursement Increase

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 pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the legislature during the 2000 Second Special Session, the bureau adopted a rule in February 2001 to restore the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999 and increase the reimbursement fees for certain designated procedure codes (*Louisiana Register*, Volume 27, Number 2).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the bureau increased reimbursement for certain designated procedure codes for non-emergency ambulance transportation services (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2001 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 increases the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services to the following rates:

A0366	Base rate, Specialized ALS services, 1st trip	\$152.75
A0426	ALS non-emergency transport	\$152.75
A0428	BLS non-emergency transport	\$152.75
Z5100	Transfer, loaded miles, BLS, 1st trip	\$152.75
Z5101	Transfer, loaded miles, ALS, 1st trip	\$152.75
Z9497	Base rate, ALS or BLS, 2nd trip	\$152.75

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, September 27, 2001 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: Medical Transportation Services—Non-Emergency Ambulance Services—Reimbursement Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$399,913 for SFY 2001-02, \$411,848 for SFY 2002-03, and \$424,204 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 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 \$949,238 for SFY 2001-02, \$977,654 for SFY 2002-03, and \$1,006,983 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase payments (approximately 22 percent) to providers of non-

emergency ambulance services by approximately \$1,349,031 for SFY 2001-02, \$1,389,502 for SFY 2002-03, and \$1,431,187 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0108#091

H. Gordon Monk
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Mental Health Rehabilitation Services
Reimbursement Increase**

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 pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for mental health rehabilitation services under the Medicaid Program. Reimbursement for these services is a prospective, negotiated and non-capitated rate based on the delivery of services as specified in the service agreement and the service package required for the adult and child/youth populations. As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the bureau adopted a rule in July of 2000 to restore the 7 percent reduction made to the reimbursement rates in the Mental Health Rehabilitation Program for high need services for adults and children as well as moderate need services for children (*Louisiana Register*, Volume 26, Number 7).

As a result of the allocation of additional funds by the legislature during the 2001 Regular Session, the bureau increased the reimbursement rates for designated procedure codes in the Mental Health Rehabilitation Program for high need, medium need and low need services for adults and children (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to adopt a rule to continue the provisions contained in the July 1, 2001 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 increases the reimbursement rates in the Mental Health Rehabilitation Program for designated procedure codes for high need, medium need and low need services for adults and children to the following rates:

Procedure Code	Procedure Name	New Rate
X0132	Adult—Low Need	\$350
X0133	Adult—Medium Need	\$750
X0135	Child—Low Need	\$400
X0136	Child—Medium Need	\$840
X0137	Child—High Need	\$1415

NOTICE OF INTENT

Department of Natural Resources Office of Conservation Executive Division

Fees (LAC 43:XIX.Chapter 7)

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, September 27, 2001 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: **Mental Health Rehabilitation Services Reimbursement Increase**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$635,162 for SFY 2001-02, \$654,156 for SFY 2002-03, and \$673,780 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 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 \$1,507,678 for SFY 2001-02, \$1,552,846 for SFY 2002-03, and \$1,599,432 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase payments to providers of mental health rehabilitation services by approximately \$2,142,720 for SFY 2001-02, \$2,207,002 for SFY 2002-03, and \$2,273,212 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0108#089

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation - General Operations

Subpart 2. Statewide Order No. 29-R-01/02

Chapter 7. Fees

§701. Definitions

Application Fee—an amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer—an application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq.), or successor regulations.

Application for Commercial Class I Injection Well—an application to construct a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells)—an application to construct additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class II Injection Well—an application to construct a commercial Class II or Class V injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.129 et seq.) or Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.), or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells)—an application to construct additional Class II or Class V injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.129 et seq.), or successor regulations.

Application for Multiple Completion—an application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:1301 et seq.), or successor regulations.

Application for Noncommercial Injection Well—an application to construct a Class I, II, III, or V noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.129 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), and 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Permit to Drill (Minerals)—an application to drill in search of minerals, as authorized by La. R.S. 30:28.

Application for Public Hearing—an application for a public hearing as authorized by R.S. 30:1, et. seq.

Application for Substitute Unit Well—an application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit—an application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit—an application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit—an application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination—an application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application to Amend Permit to Drill (Injection or Other)—an application to alter, amend, or change a permit to drill an injection, or other well after its initial issuance, as authorized by La. R.S. 30:21.

Application to Amend Permit to Drill (Minerals)—an application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by La. R.S. 30:28.A.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the application fee provided herein.

Application to Commingle—an application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq. and LAC 43:XIX.1700 et seq.), or successor regulations.

Application to Process Form R-4—application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

Application to Renew Permit to Drill (Injection or Other)—an application to renew a permit to drill an injection, or other well, as authorized by La. R.S. 30:21.

Application to Renew Permit to Drill (Minerals)—an application to renew a permit to drill for minerals, as authorized by La. R.S. 30:28.B.

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 7.

Capable Gas—natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well—a Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 (LAC 43:XVII.101 et seq.) or 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class III Well—a Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance—emergency authorization to transport oil from lease.

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$2,250,000 for Fiscal Year 2000 - 2001 and thereafter. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

Production Well—any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells certified by the Severance Tax Division of the Department of Revenue and Taxation.

Regulatory Fee—an amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed \$875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but

not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility—commercial oilfield waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.129 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

Type B Facility—commercial oilfield waste disposal facilities within the State that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.129 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:758 (March, 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:1526 (July 2000), LR 26:2302 (October 2000), LR 27:

§703. Fee Schedule for Fiscal Year 2001-2002

A. Application Fees	Amount
Application for Unit Determination	\$ 233
Application for Substitute Unit Well	\$ 233
Application for Public Hearing	\$ 700
Application for Multiple Completion	\$ 117
Application to Commingle	\$ 233
Application for Automatic Custody Transfer	\$ 233
Application for Noncommercial Injection Well	\$ 233
Application for Commercial Class I Injection Well	\$1,165
Application for Commercial Class I injection Well (Additional Wells)	\$ 582
Application for Commercial Class II Injection Well	\$ 582
Application for Commercial Class II Injection Well (Additional Wells)	\$ 290
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 117
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 582
Application for Permit to Drill - Minerals: 10,001' +	\$1,165
Drill Minerals Deeper (> 3,000')	\$ 466
Drill Minerals Deeper (> 10,000')	\$ 582
Application to Amend Permit to Drill - Minerals	\$ 117
Application to Amend Permit to Drill - Injection or Other	\$ 117
Application for Surface Mining Exploration Permit	\$ 60
Application for Surface Mining Development Operations Permit	\$ 87
Application for Surface Mining Permit	\$2,039
Application to Process Form R-4	\$ 34
Application to Reinstate Suspended Form R-4	\$ 60
Application for Emergency Clearance Form R-4	\$ 60

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,650 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,825 per facility.

3. Operators of record of permitted Class II injection/disposal wells are required to pay \$550 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$550 per well.

C. Class I Well Fees: Operators of permitted Class I wells are required to pay \$9,090 per well.

D. Production Fees: Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

	Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0	13
Tier 2	1 - 5,000	67
Tier 3	5,001 - 15,000	190
Tier 4	15,001 - 30,000	318
Tier 5	30,001 - 60,000	508
Tier 6	60,001 - 110,000	699
Tier 7	110,001 - 9,999,999	857

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:758 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:1528 (July 2000), LR 26:2304 (October 2000), LR 27:

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including R.S. 30:18.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:1528 (July 2000), LR 26:2304 (October 2000), LR 27:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-01/02, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-01/02) supercedes Statewide Order No. 29-R-00/01.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:1528 (July 2000), LR 26:2305 (October 2000), LR 27:

Family Impact Statement

In accordance with LSA-RS. 49:972, the following statements are submitted after consideration of the impact of the proposed rule on family as defined therein.

1. The proposed rules will have no effect on the stability of the family.
2. The proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The proposed rules will have no effect on the functioning of the family.
4. The proposed rules will have no effect on family earnings and family budget.
5. The proposed rules will have no effect on the behavior and personal responsibility of children.
6. Family or local government are not required to perform any function contained in the proposed rules.

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Monday, October 2, 2001. Comments should be directed, in writing, to Philip N. Asproditos, Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9:00 a.m., Tuesday, September 25, 2001 in the Conservation Auditorium, located on the First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

Philip N. Asproditos
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Statewide Order No. 29-R-01/02 will replace Statewide Order No. 29-R-00/01 but will retain the existing fee schedule and there will be no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Statewide Order No. 29-R-01/02 will retain the existing fee schedule and therefore there will be no additional cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Philip N. Asproditos
Commissioner
0108#069

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-B
(LAC 43:XIX.Chapter 5)

The Commissioner of Conservation proposes to amend Statewide Order No. 29-B, LAC 43:XIX, Subpart 1, Chapter 5 (501 et seq.) in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4C(1) , (2), (3), (6), (8), (9), (10), (14), (16) and 4I. These amendments will also be considered under Public Hearing Docket No. IMD 2001-11 on September 27, 2001. The proposed rule changes are a result of an ongoing study of E&P waste in Louisiana and are based on the reports and recommendations of outside experts. These proposed rules amend the requirements for the offsite disposal of explorations and production (E&P) wastes at commercial storage, treatment and disposal facilities.

Changes have been made in a number of sections. The following table shows the cross-over of the titles and descriptions from the former citations to the new citations.

Former Citation	New Citation—Title/Description
501.	501. Definitions*
N/A	503.A General Requirements for E&P Waste**
503.B	503.B Subsurface Disposal of Salt Water Required*
503.A.1	503.C Handling and Disposal of E&P Waste*
N/A	503.D Disposal at DEQ Regulated Facilities Allowed**
N/A	503.E Requirements for Gas Plant Waste**
503.A.2	503.F.1 Spill Reporting Requirements*
503.A.3	503.F.2 Reporting of Unauthorized Disposal*
503.A.4	503.F.3 Disposition of E&P Waste*
503.B	505.A Approval of Commercial Facility Required*
N/A	505.B Requirements for Gas Plant Waste**

503.C	505.C Approval of Transfer Station Required
N/A	505.D Electronic Submission of Applications, Data and Reports**
503.D	507. Location Criteria*
503.E	509. Design Criteria*
505.C.10	511. Financial Responsibility *
505.C.11	513. Provisions for Adequate Closure*
N/A	515. Waste Management and Operations Plan**
N/A	517. Permit Compliance Review **
505.A, B, C, & D	519. Permit Application Requirements for Commercial Facilities*
505.E Permit Application Requirements for Pits	(Repealed)
505.G	521. Permit Application Requirements for Transfer Stations *
505.F	523. Permit Application Requirements for Land Treatment Systems*
N/A	525. Permit Application Requirements for Other Treatment and Disposal Options**
507.A, B, C, D, F, G, & H	527. Permitting Procedures*
507.E	529. Public Notice Requirements *
N/A	531. Permitting Conditions **
509. A, B, C, G, K, & L	533. General Operational Requirements for Commercial Facilities*
509.D	535. Notification Requirements *
509.E	537. Hours of Receiving *
509.F	539. Monitoring Requirements for Commercial Class II Injection Wells *
509.H	541. Sampling and Testing Requirements of Commercial Facilities with Monitor Wells*
509.I	543. Receipt, Sampling and Testing of Exploration & Production Waste*
511.	545. Manifest System *
N/A	547. Commercial Exploration and Production Waste Treatment and Disposal Options **
513.	549. Land Treatment Facility Requirements *
N/A	551. Phase Separation Requirements (Reserved) **
N/A	553. Thermal Desorption Requirements (Reserved) **
N/A	555. Cavern Disposal Requirements (Reserved) **
N/A	557. Incineration Requirements (Reserved) **
N/A	559. Solidification/Stabilization Requirements (Reserved) **
N/A	561. Reserved
N/A	563. Reserved
515.	565. Resource Conservation and Recovery of Exploration and Production Waste *
517.	567. Closure Requirements *
519.	569. Exceptions
521. Effect on Existing Special Orders	(Repealed)
523. Applicability	(Repealed)
	* Existing Language Amended ** All New Language

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation
Subpart 1. Statewide Order No. 29-B
Chapter 5. Off-site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated From Drilling and Production of Oil and Gas Wells

(NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3)

§501. Definitions

Application Phase—an identifiable period of time during which E&P waste receipts are applied to a land treatment cell.

Cell—an earthen area constructed with an underdrain system within a land treatment facility used for the placement, treatment, disposal and degradation of exploration and production waste.

Closed System—a system in which exploration and production waste is stored and treated in enclosed sumps, tanks, barges, or other vessels/containers or equipment prior to disposal. Open top sumps and earthen pits are not utilized in a closed system.

Commercial Facility—a legally permitted E&P waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, and/or disposes of exploration and production waste for a fee or other consideration, and shall include the term “transfer station”.

Commissioner—the Commissioner of Conservation of the State of Louisiana.

Community Saltwater Disposal Well or System—a saltwater disposal well within an oil or gas field which is operated by one operator of record for disposal of E&P waste fluids and used by other operators of record in the same field or adjacent fields for noncommercial disposal of their produced water. Such operators share in the costs of operating the well/system. For purposes of this definition, “adjacent fields” means oil or gas fields or portions thereof which are located within or partially encroach upon the same township as a community saltwater disposal well or one or more townships all of which are directly contiguous to the township in which the community saltwater disposal well is located.

Container—a sump, storage tank, process vessel, truck, barge, or other receptacle used to store or transport E&P waste.

Drilling Waste—water base mud, oil base mud, or other drilling fluids and cuttings generated during the drilling of wells. These wastes are a subset of E&P waste.

Exploration and Production Waste (E&P waste)—drilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. Such wastes include, but are not limited to the following:

Waste Type	E&P Waste Description
01	Saltwater (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, and process fluids generated by approved salvage oil operators who only receive oil (BS&W) from oil and gas leases, and produced formation fresh water.
02	Oil-base drilling mud (fluids) and cuttings
03	Water-base drilling mud (fluids) and cuttings
04	Completion, workover and stimulation fluids
05	Production pit sludges
06	Storage tank sludge from production operations, onsite and commercial saltwater disposal facilities, salvage oil facilities (that only receive waste oil [B, S, & W] from oil and gas leases), and sludges generated by service company and commercial facility wash water systems
07	Produced oily sands and solids
08	(Reserved)
09	Rainwater from firewalls, ring levees and pits at drilling and production facilities
10	Washout water and solids generated from the cleaning of containers that transport exploration and production waste and are not contaminated by hazardous waste or material; washout water and solids (E&P waste type 10) is or may be generated at a commercial facility by the cleaning of a container holding a residual amount (no more than 1 barrel) of E&P waste
11	Washout pit water and solids from oilfield related carriers and service companies that are not permitted to haul hazardous waste or material
12	Nonhazardous natural gas plant processing (E&P) waste which is or may be commingled with produced formation water (Form UIC-23 may be required)
13	(Reserved)
14	Pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	E&P wastes that are transported from permitted commercial facilities to permitted commercial treatment and disposal facilities, except those E&P wastes defined as waste types 01 and 06
16	Crude oil spill clean-up waste
50	Salvageable hydrocarbons bound for permitted salvage oil operators
99	Other E&P waste not described above; shipment to a commercial facility must be pre-approved prior to transport

E&P Waste—exploration and production waste.

Generator—any person or entity who generates or causes to be generated any exploration and production waste (E&P waste), commonly referred to as "operator."

Groundwater Aquifer—as defined in §301.

Inactive Cell—a land treatment cell which is not used for E&P waste receipts or has been taken out of service by a land treatment facility. Such cell may be considered inactive only if it is a new cell which has not yet received waste or an existing cell which is in compliance with the applicable testing criteria of this Chapter.

Land Treatment—a dynamic process involving the controlled application of exploration and production waste onto or into the aerobic surface soil horizon in open cells by a commercial facility, accompanied by continued monitoring and management, to alter the physical, chemical, and biological state of the waste. Site, soil, climate, and

biological activity interact as a system to degrade and immobilize waste constituents thereby rendering the area suitable for the support of vegetative growth and providing for beneficial future land use or to meet the reuse criteria of §565.

MPC—maximum permissible concentration

Offsite—for purposes of this Section, outside the confines of a drilling unit for a specific well or group of wells, or in the absence of such a unit, outside the confines of a lease or contiguous property owned by the lessor upon which a well is drilled.

Oil-Based Drilling Muds—any oil-based drilling fluid composed of a water in oil (hydrocarbon or synthetic) emulsion, organophillic clays, drilled solids and additives for down-hole rheology and stability such as fluid loss control materials, thinners, weighting agents, etc.

Pit—an earthen surface impoundment constructed to retain E&P waste, often referred to as a pond or lagoon.

Residual—the de-minimis volume of E&P waste (solids or liquids) remaining in a container after offloading at a commercial facility, amounting to no more than one barrel.

Reusable Material—a material that would otherwise be classified as exploration and production waste, but which is capable of resource conservation and recovery and has been processed in whole or in part for reuse. To meet this definition, the material must have been treated physically, chemically, or biologically or otherwise processed so that the material is significantly changed (i.e., the new material is physically, chemically, or biologically distinct from the original material), and meets the criteria of §565.F.

Salt Water (Produced Brine)—produced water from an oil or gas well with a chloride content greater than 500 ppm.

Sump—a washout pit or container constructed of steel, fiberglass, sealed concrete, or some other impermeable material utilized for temporary storage of E&P waste, including, but not limited to wash water and solids (sludge) generated by the removal/cleaning of residual amounts of E&P waste from storage containers.

Transfer Station—a exploration and production waste receiving and storage facility, located offsite, but operated at an approved location in conjunction with a permitted commercial facility, which is used for temporary storage of manifested exploration and production waste for a period of 30 days or less.

Transporter—a legally permitted carrier of exploration and production waste contained in trucks, barges, boats, or other transportation vessels.

Treatment—as applies to Type A Facilities (defined herein), excluding Transfer Stations, treatment shall be defined as any method, technique, or process capable of changing the physical and/or chemical characterization or composition of E & P waste so as to reclaim salvageable hydrocarbons, process reusable material, reduce waste volume (volume reduction), neutralize waste, reduce §549 criteria concentration(s) or otherwise render the waste more suitable for handling, storage, transportation, and/or disposal.

Treatment Phase—the period of time during which E&P waste in a land treatment cell is physically manipulated and/or chemically altered (through the addition of chemical amendments, etc.) to bring the cell into compliance with the testing criteria or reuse criteria of this Chapter.

Treatment Zone—the soil profile in a land treatment cell that is located wholly above the saturated zone and within which degradation, transformation, or immobilization of E&P waste constituents occurs. The treatment zone is subdivided as follows.

a. *Waste Treatment Zone (WTZ)*—the active waste treatment area consisting solely of the E&P solids applied to a land treatment cell during the application phase, exists entirely above grade (original cell bottom), and whose actual depth depends on the solids content of the E&P waste applied. For monitoring purposes the WTZ represents the 0-12" depth increment.

b. *Upper Treatment Zone (UTZ)*—the waste/native soil (original cell bottom) interface in a land treatment cell where some disturbance occurs as a result of E&P waste treatment/manipulation. For monitoring purposes, the UTZ represents the 12-24" depth increment.

c. *Lower Treatment Zone (LTZ)*—the zone beneath the UTZ in a land treatment cell from approximately 24-54" (or to the top of the subsurface drainage system) which remains undisturbed throughout the life of a land treatment cell.

Type A Facility—a commercial E&P waste disposal facility or transfer station within the state that utilizes technologies appropriate for the receipt, storage, treatment, or disposal of exploration and production waste solids and liquids for a fee or other consideration. Such facility may include not more than three underground injection wells at the permitted facility.

Type B Facility—a commercial E&P waste disposal facility or transfer station within the state that utilizes underground injection technology for the receipt, storage, treatment, and disposal of only produced saltwater, oilfield brine, or other exploration and production waste fluids for a fee or other consideration. Such facility may include not more than three underground injection wells at the permitted facility.

Waste Management and Operations Plan—as identified and required in §515.

Water-Based Drilling Muds—any water-based fluid composed of fresh water, naturally occurring clays, drilled solids and additives for fluid loss control, viscosity, thinning, pH control, weight control, etc., for down-hole rheology and stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§503. General Requirements for Generators of E&P Waste

A. Generators of exploration and production waste must be familiar with the components of the E&P waste they generate. Appropriate waste characterization procedures should be undertaken to determine the constituents of the waste prior to disposal. E&P waste which is to be taken offsite or has been taken offsite for storage, treatment, or disposal may be required to be sampled and analyzed in accordance with EPA protocols or Office of Conservation (OC) approved procedures. The unpermitted or unauthorized onsite or offsite storage, treatment, disposal or discharge of E&P waste is prohibited and is a violation of these rules.

B. Subsurface disposal of salt water is required and regulated by Chapter 4 of LAC 43:XIX. The requirements of this Chapter do not apply to either lease saltwater disposal wells or to community saltwater disposal wells.

C. The generator is responsible for the proper handling and transportation of E&P waste taken offsite for storage, treatment, or disposal to assure its proper delivery to an approved commercial facility or other approved treatment or disposal facility. Failure to properly transport and dispose of

such waste shall subject the generator to penalties provided for in R.S. 30:18. Each shipment must be documented as required by §545.

D. At the option of the generator, exploration and production waste may be treated and/or disposed at Department of Natural Resources (DNR) permitted commercial facilities or Department of Environmental Quality (DEQ) permitted municipal or Subtitle C solid waste landfills or TSD facilities and shall be subject to relevant DEQ regulations. If disposed at a DEQ regulated facility, E&P waste would become the sole regulatory responsibility of the Department of Environmental Quality upon receipt.

E. Requirements for Gas Plant Waste (Waste Type 12)

1. Prior to shipment and disposal at commercial land treatment facilities, nonhazardous natural gas plant processing waste (gas plant waste - Waste Type 12) must be analyzed for the chemical compound benzene (C₆H₆). Representative sampling must be performed by an independent professional consultant or laboratory (third party). Testing must be performed by a DEQ certified laboratory in accordance with procedures presented in the *Laboratory Manual for the Analysis of Oilfield Waste* (Department of Natural Resources, August 9, 1988, or latest revision).

2. Waste Type 12 is not required to be tested for benzene if disposed at commercial facilities that utilize treatment options other than land treatment (see §547).

3. If test data indicates the waste is above the maximum permissible concentration (MPC) criteria of §549.C.7.a, the following options are available to the generator of Waste Type 12:

a. treat the waste (on-site) to below the MPC criteria of §549.C.7.a prior to off-site shipment to any commercial land treatment facility;

b. dispose of the waste at a commercial land treatment facility that has been approved for the receipt, storage, treatment and disposal of waste that is out of compliance with the MPC criteria of §549.C.7.a; or

c. dispose of the waste at Department of Environmental Quality (DEQ) permitted municipal or Subtitle C solid waste landfills or TSD facilities, pursuant to the provisions of §503.D above.

4. If a generator chooses to dispose of Waste Type 12 at a commercial land treatment facility, the generator must attach a copy of the laboratory report to the manifest which accompanies each shipment of the waste.

5. Prohibition of Waste Mixing

a. Mixing Waste Type 12 with any other E&P waste type prior to sampling and shipment to a commercial facility is strictly prohibited.

b. Any inadvertent or unavoidable mixture of E&P wastes containing any quantity of waste type 12 must meet the MPC testing criteria of §549.C.7.a for total benzene.

c. Mixing Waste Type 06 with any other E&P waste type prior to shipment to a commercial facility is strictly prohibited.

d. Any inadvertent or unavoidable mixture of E&P wastes containing any quantity of Waste Type 06 (and

associated wash water) shall be designated as waste type 06, and if land treated, must meet the distance requirements of 2000' for Waste Type 06 in §507.A.2 below.

6. Commercial land treatment facilities may not receive, store, treat or dispose of E&P Waste Type 12, gas plant wastes, unless the requirements of §505.B have been met.

F. General Reporting Requirements

1. Any spills which occur during the offsite transportation of E&P waste shall be reported by phone to the Office of Conservation, within 24 hours of the spill and the appropriate state and federal agencies.

2. Operators (generators) are required to report the discovery of any unauthorized disposal of E&P waste by transporters, or any other oilfield contracting company.

3. Within six months of the completion of the drilling or workover of any well permitted by the Office of Conservation, the operator (generator) shall comply with the reporting requirements of LAC 43:XIX.303 regarding the disposition of any E&P wastes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§505. General Requirements for Commercial Facilities

A. The offsite storage, treatment, and/or disposal of E&P waste by a commercial facility must be approved by the commissioner as provided in this Chapter.

B. Commercial land treatment facilities may not receive, store, treat or dispose of nonhazardous natural gas plant processing waste (Waste Type 12) that exceeds the MPC criteria of §549.C.7.a for total benzene unless the company has demonstrated to the commissioner that the waste can be pretreated to below the applicable MPC prior to land treatment. Such demonstration shall be considered a major modification of any existing permit and will require compliance with the permitting procedures of §519, §527, and §529, including the submission of an application and public participation. The waste management and operations plan required in §515 shall clearly indicate how the waste storage and treatment system will minimize the release of benzene (e.g., enclosed tanks, enclosed treatment equipment, vapor recovery systems, etc.). Such demonstration shall also include proof of solicitation from DEQ regarding applicable required air permitting for the existing and amended land treatment system.

C. Approval of Transfer Station Required: The construction and operation of a transfer station must be approved by the commissioner upon submission of a permit application according to the requirements of §521.

D. The Commissioner will consider and encourages the electronic submission of applications, data or reports required under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§507. Location Criteria.

A. Commercial facilities and associated commercial Class II saltwater disposal wells may not be located in any area:

1. within one-quarter mile of a public water supply well, within 1,000 feet of a private water supply well or within a DEQ designated source water protection or wellhead protection area;

2. where Class II disposal wells, commercial facility storage containers, treatment facilities and related equipment, land treatment cells or other equipment are within required distances from a residential, industrial commercial, or public building or hospital as listed in the chart below:

Facility Type	Specific Conditions	Distance Required
A	No land treatment cells	500'
A	Land treatment cells	1,000'
A	Land treatment of Waste Type 06	2,000'
B	(none)	500'

3. where the subsurface geology of any proposed injection zone (reservoir) does not exhibit the following characteristics:

a. adequate thickness and areal extent of the proposed injection zone; and

b. adequate clay confining beds separating the top of the proposed injection zone and the base of the lowermost underground source of drinking water;

4. where permanent E&P waste storage containers, land treatment cells, storm water retention or sediment ponds, and reuse stockpiles are located in a "V" or "A" zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA) unless adequate levees are constructed to at least one foot above the 100-year flood elevation as certified by a professional engineer or surveyor and able to withstand the velocity of the 100-year flood. Existing facilities located in a "V" or A zone will be required to build facility levees above the 100-year flood elevation as certified by a professional engineer or land surveyor. As conditions change and new data is made available by FEMA, owners of existing commercial facilities will be required to update their facilities accordingly;

5. where such area, or any portion thereof, has been designated as wetlands by the U.S. Corps of Engineers during, or prior to, initial facility application review;

6. where other surface or subsurface conditions exist which in the determination of the commissioner of Conservation would cause the location to pose a threat of substantial, adverse effects on public health or safety or the environment at or near the location.

B. If the owner of the residence or commercial building or the administrative body responsible for the public building, hospital or church waives the distance requirements of §507.A.2 above, such waiver must be in writing, shall contain language acceptable to the Commissioner, and shall be included in the permit application.

C. Transfer stations are exempt from the location requirement of 500 feet from an industrial commercial building.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§509. Design Criteria

A. Commercial facilities and commercial Class II saltwater disposal wells shall be designed and constructed in such a manner as to prevent the release of E&P waste or E&P waste byproducts into soil, air, groundwater aquifers or underground sources of drinking water (USDW's) and to prevent the discharge of waste materials or waste byproducts into man-made or natural drainage or directly into state waters unless a discharge permit has been received from the appropriate state or federal agency.

B. Commercial facilities shall be designed and constructed in a manner which is protective of public health, safety and welfare or the environment, surface waters, groundwater aquifers and underground sources of drinking water in accordance with, but not limited to, the following requirements:

1. all applicable construction and operational standards of this Chapter, as well as Chapter 2, Chapter 3, and Chapter 4 of LAC 43:XIX, Subpart 1, Statewide Order No. 29-B;

2. facility design shall provide for the segregation, separation, and containment of free oil, where appropriate;

3. retaining walls (levees) shall be built around all above-ground storage tanks to a level that will provide sufficient capacity to retain the contents of each tank and prevent the release or seepage of stored wastes due to tank leakage, or some other cause;

4. spill containment systems shall be built around unloading areas to prevent the escape of any wastes spilled during off-loading; and

5. limited access to waste transported on land shall be provided by a lockable gate system. The need for a 6-foot chain-link fence around an entire facility or any portion of a facility will be determined after a site investigation by the commissioner or his designated representative. Gates shall be locked except during the hours a facility is permitted to receive exploration and production waste.

C. Land treatment cells shall not exceed 5 acres in size.

D. Earthen or artificially lined pits shall not be constructed or used for storage of E&P waste at any commercial facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§511. Financial Responsibility

A. Each permitted commercial facility and transfer station must maintain evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or waste offsite from the commercial facility. Such evidence must be provided by the applicant prior to issuance of a permit.

B. Financial responsibility may be evidenced by filing a letter of credit, bond, certificate of deposits issued by and drawn on Louisiana banks, or any other evidence of equivalent financial responsibility acceptable to the commissioner.

C. In no event shall the amount and extent of such financial responsibility be less than the face amounts per occurrence and/or aggregate occurrences as set by the commissioner below:

1. \$500,000 minimum financial responsibility for any commercial facility (excluding transfer stations) which stores, treats or disposes of exploration and production waste solids (i.e. oil- or water-base drilling fluids, etc.); or

2. \$250,000 minimum financial responsibility for a commercial salt water disposal facility which utilizes underground injection and a closed storage system; and

3. \$100,000 minimum financial responsibility for each transfer station operated in conjunction with a legally permitted commercial facility subject to the guidelines of this Section.

NOTE: The commissioner retains the right to increase the face amounts set forth above as needed in order to prevent waste and to protect public health, safety, and welfare or the environment.

D. If insurance coverage is proposed and accepted to meet the financial responsibility requirement, it must be provided by an insurer that is licensed to transact the business of insurance, or eligible to provide insurance as an excess of surplus lines insurer, in one or more states, and is authorized to conduct insurance business in the state of Louisiana.

1. For a commercial facility which operates land treatment cells, such insurance must provide sudden and accidental pollution liability coverage as well as environmental impairment liability coverage.

2. For any commercial facility or transfer station which does not operate land treatment cells, such insurance must provide sudden and accidental pollution liability coverage.

E. Proof of insurance must be provided by a certificate of liability insurance which must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

COMMERCIAL FACILITY

CERTIFICATE OF LIABILITY INSURANCE

1. [Name of Insurer], (the "Insurer") of [address of Insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured], (the "insured"), of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under LAC 43:XIX.511. The coverage applies at [site code or address for each facility] for [insert "sudden and accidental pollution liability" or "environmental impairment"]. The limits of liability are [insert the dollar amount of "each occurrence" and "annual aggregate" limits of the Insurer's liability], exclusive of legal defense costs. The coverage is provided under policy number _____, issued on [date]. The effective date of said policy is [date].

2. The insurer further certifies the following with respect to the insurance described in §511.E.1 above.

a. Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligation under the policy.

b. The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated.

c. Whenever requested by the Commissioner of Conservation, the insurer agrees to furnish to the Commissioner a signed duplicate original of the policy and all endorsements.

d. Cancellation of the insurance, whether by the insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the commercial facility, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the Commissioner of Conservation.

e. Any other termination of the insurance will be effective only upon written notice and only after the expiration of 30 days after a copy of such written notice is received by the Commissioner of Conservation.

I hereby certify that the wording of this instrument is identical to the wording specified in LAC 43:XIX.511.E as such regulation was constituted on the date this certificate was issued, as indicated below, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess of surplus lines insurer, in one or more states, and is authorized to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of Insurer]

[Type name]

[Title], Authorized Representative of [Name of Insurer]

[Address of Representative]

DATE OF ISSUANCE: _____.

F. A commercial facility application shall contain documentation of the method by which proof of financial responsibility will be provided by the applicant. Where applicable, the application must include copies of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the commissioner.

G. Documentation of financial responsibility must be submitted to and approved by the commissioner prior to beginning construction.

H. Financial responsibility must be renewable on April 1 of each year. Documentation that the required financial responsibility has been renewed must be received by March 15 of each year or procedures to initiate permit suspension will be initiated. If suspended, the permit shall remain suspended until insurance coverage has been confirmed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§513. Provisions for Adequate Closure

A. All offsite commercial facilities under the jurisdiction of the Office of Conservation shall be closed in a manner approved by the commissioner to insure protection of the public, the environment, groundwater aquifers and underground sources of drinking water. A plan for closure must be developed in accordance with the requirements of the commissioner.

B. Each permitted commercial facility and transfer station shall maintain a bond or irrevocable letter of credit on file with the Office of Conservation to provide for adequate closure of the facility. The bond or letter of credit must be renewable on October 1 of each year.

C. Closure bond or letter of credit amounts will be reviewed each year prior to the renewal date according to the following process.

1. A detailed cost estimate for adequate closure of each permitted commercial facility shall be prepared by an independent professional consultant and submitted to the commissioner on or before February 1 of each year.

2. The closure plan and cost estimate must include provisions or closure acceptable to the commissioner and must be designed to reflect the costs to the Office of Conservation to complete the approved closure of the facility.

3. Upon review of the cost estimate, the commissioner may increase, decrease or allow the amount of the bond or letter of credit to remain the same.

4. Documentation that the required closure bond or letter of credit has been renewed must be received by September 15 of each year or the commissioner shall initiate procedures to take possession of the funds guaranteed by the bond or letter of credit and suspend or revoke the permit under which the facility is operated. Any permit suspension shall remain in effect until renewal is documented.

D. The commissioner may consider the submission of other financial documents on a case-by-case basis to comply with the requirements of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§515. Waste Management and Operations Plan

A. All existing commercial facilities must maintain a waste management and operations plan (WMOP, Plan) on file with the Office of Conservation.

B. The Plan must be updated as necessary or at the request of the commissioner to take into consideration any changes or modifications made at the facility.

C. The Plan must describe the methods by which activities at the facility are monitored to insure compliance with the applicable requirements of this Chapter and Chapters 1, 3 and 4 of LAC 43:XIX, Subpart 1, Statewide Order No. 29-B.

D. For existing facilities, a WMOP shall be submitted to the Office of Conservation within 180 days of promulgation of this requirement.

E. For new facilities, a WMOP must be submitted with the application.

F. At a minimum, a WMOP shall contain the following information:

1. volume, rate of treatment/application and types of E&P wastes to be received, stored, treated and/or disposed at each commercial facility; a complete explanation of procedures for witnessing the receipt, sampling, and testing of wastes (waste acceptance policy) to assure that only permitted exploration and production wastes are accepted, in compliance with the requirements of §545; and a detailed explanation of the facilities and equipment to be utilized;

2. a contingency plan for reporting, responding to and cleaning up spills, leaks, and releases of E&P wastes or treatment byproducts, including provisions for notifying applicable local, state and federal emergency response authorities and for taking operator-initiated emergency response actions;

3. a plan for routine inspection and maintenance of monitoring equipment (e.g., gauges, monitor wells, etc.) to ensure and demonstrate compliance with permit and regulatory requirements;

4. commercial land treatment facilities must provide the following information:

a. a groundwater and facility monitoring plan to comply with the applicable requirements of this Chapter;

b. specific plans for preventing or minimizing air emissions from sources such as the volatilization of organic materials and/or hydrogen sulfide in the waste, particulate matter (dust) carried by the wind, periodic removal and subsequent handling of free oil, and chemical reactions (e.g., production of hydrogen sulfide from sulfur-bearing wastes);

c. the plan shall address short-term and long-term distribution of Waste Type 06 on land treatment cells to prevent excessive 'same cell' loading of this waste type;

d. a reuse stockpile management plan (see §565.G);

e. plans to comply with the location criteria of §507.A.2 for land treatment of E&P waste;

5. a security plan for the facility;

6. a community relations or public information plan; and

7. an environmental, health, and safety plan which describes site sampling methods and procedures to determine the potential risks to public health, safety and welfare or the environment posed by the site. Such plan shall indicate how the facility will comply with the applicable environmental monitoring requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§517. Permit Compliance Review

A. Commercial facility permits shall be reviewed at least once every five years to determine compliance with applicable permit requirements and conditions. Commencement of the permit review process for each commercial facility shall proceed as authorized by the commissioner of Conservation.

B. At the commissioner's discretion, any commercial facility operator may be required to sample and test facility property and/or equipment for NORM and/or parameters established for "soils" in §549.E.2 to assure compliance with closure requirements of §567.A. The commercial facility operator must submit a report detailing the results of all onsite sampling and testing in a manner acceptable to the

Commissioner of Conservation. Sampling and testing must be performed by an independent professional consultant and third-party laboratory. Testing must be performed by a DEQ certified laboratory in accordance with procedures presented in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1998, or latest revision).

C. Upon review of the data and as deemed appropriate, administrative steps will be taken to revise or revoke permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), LR 27:

§519. Permit Application Requirements for Commercial Facilities

A. Application and Permit Required. Every person who intends to construct and operate a new offsite commercial facility, or make a major modification to an existing commercial facility, shall file a permit application with the Office of Conservation.

B. Notice of Intent

1. At least 30 days prior to filing such application, the applicant shall publish a notice of intent to apply. Such notice shall contain sufficient information to identify the following:

- a. name and address of the applicant;
- b. the location of the proposed facility;
- c. the nature and content of the proposed waste stream(s);
- d. the method(s) of storage, treatment, and/or disposal to be used.

2. The notice of intent shall be published in the official state journal, the official journal of the parish in which the proposed facility will be located, and in the journal of general circulation in the area where the proposed facility is to be located, if different from the official parish journal.

3. Such notice shall be in bold-face type and not less than one-quarter page in size and shall be published on three separate days in each journal.

C. General Information. Except for the filing and hearing fees, the following general information must be provided in duplicate in each application for approval to operate a commercial facility:

1. for a commercial Class II injection/disposal well application, the appropriate nonrefundable application fee(s), in the amount(s) required by Statewide Order No. 29-R-00/01, LAC 43:XIX.701 et seq., or successor regulations. New operators must submit Form OR-1 (Organization Report) to receive a permanent Operator Code number (no fee required);

2. a nonrefundable hearing fee in the amount required by Statewide Order No. 29-R-00/01, LAC 43:XIX.701 et seq., or successor regulations;

3. a list of names, addresses, and telephone numbers of the principal officers of the company or corporation and the names and addresses of local governing authorities;

4. to document compliance with the location criteria of §507.A.2, provide a list of the names and addresses of all property owners, residents, off-set operators and industrial facilities within one-quarter mile of the proposed facility or disposal well. Include copies of waivers required by §507.B, where applicable. Include a map drawn to scale showing the following information:

- a. property boundaries of the commercial facility;
- b. the boundaries and ownership of all land adjacent to the commercial facility;
- c. the location and identification of all residential, commercial, or public buildings or hospitals within one-quarter mile of the facility property boundaries; and
- d. all public supply wells and the boundaries of all DEQ designated source water supply and wellhead protection areas within one mile of the proposed facility;

5. a detailed schematic diagram of the proposed facility of sufficient scale to show the placement of access roads, buildings, and unloading areas, and the location and identification of all storage tanks, barges, and other containers (including design capacities), treatment system/facilities/equipment, levees, flowlines, filters, the Class II disposal well(s), and all other equipment and operational features of the storage, treatment and/or disposal system;

6. for operators proposing the construction and operation of a Class II disposal well, complete the appropriate application form, including all required attachments. To document compliance with the location criteria of §507.A.3, the application must provide strike and dip geologic cross sections intersecting at the location of the disposal well for which a permit is sought. These cross sections must include, at a minimum, available log control, geologic units, and lithology from the surface to the lower confining bed below the injection zone. The sections shall be on a scale sufficient to show the local geology in at least a two-mile radius from the proposed disposal well. The following information must be included on these cross-sections:

- a. the base of underground sources of drinking water (USDW's);
- b. the vertical and lateral limits of the proposed injection zone (reservoir);
- c. the vertical and lateral limits of the upper and lower confining beds; and
- d. the location of faults or other geologic structures;

7. documentation of compliance with the applicable location criteria of §507.A.4 and 5, with regard to flood zones and wetland areas;

8. a copy of the title to the property upon which the facility will be located. If a lease, option to lease or other agreement is in effect on the property, a copy of this instrument shall be included in the application;

9. a parish map of sufficient scale to identify the location of the proposed facility;

10. a topographic map showing the location of the proposed site and any highways or roads that abut or traverse the site, all water courses, flood plains, water wells, and pipelines within one mile of the site boundary;

11. as required in §515, provide a detailed waste management and operations plan that includes, but is not limited to the proposed method of operation of the facility and procedures for the receipt, storage, treatment and/or disposal of E&P wastes;

12. documentation that the facility and/or disposal well will comply with the applicable design criteria of §509;

13. evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or waste from the commercial facility or transfer station, in compliance with the requirements of §511. The application shall contain documentation of the method by which proof of financial responsibility will be provided by the applicant. Where applicable, include a copy of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the commissioner. Prior to beginning construction, final (official) documentation of financial responsibility must be submitted to and approved by the commissioner;

14. documentation that a bond or irrevocable letter of credit will be provided for adequate closure of the facility, in compliance with the requirements of §513. The application must include the following:

a. a detailed cost estimate for adequate closure of the proposed facility. The cost estimate must include a detailed description of proposed future closure procedures including, but not limited to plugging and abandonment of the disposal well(s) (if applicable), plugging of any monitor wells according to applicable state regulations, closing out any sumps, storm water retention (sediment) ponds, or land treatment cells, removing all surface equipment, and returning the environment (site) as close as possible to its original state. The closure plan and cost estimate must be prepared by an independent professional consultant, must include provisions for closure acceptable to the commissioner, and must be designed to reflect the costs to the commissioner to complete the approved closure of the facility;

b. a draft irrevocable letter of credit or bond in favor of the state of Louisiana and in a form which includes wording acceptable to the commissioner. Upon completion of the application review process, the commissioner will set the amount of the required bond or irrevocable letter of credit. The bond or letter of credit must be renewable on October 1 of each year and must be submitted to and approved by the commissioner prior to beginning construction;

15. verification that a discharge permit has been obtained from the appropriate state or federal agencies or copies of any applications submitted to such agencies. If a facility does not intend to discharge treated waste water or other water, a completed and notarized Affidavit of No Discharge, which includes wording acceptable to the commissioner, must be provided;

16. a list of all other licenses and permits needed by the applicant to conduct the proposed commercial activities. Include identification number of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses;

17. provide the names of all companies currently or formerly owned and/or operated by the applicant (company requesting a permit) and/or the principal officers of the applicant for the receipt, storage, treatment, recycling and/or disposal of E&P waste or hazardous or nonhazardous industrial or municipal solid waste;

18. provide a list of local, state and/or federal permits currently or formerly held by the applicant and/or any of the principal officers of the applicant for the storage, treatment, recycling and/or disposal of E&P waste or hazardous or nonhazardous industrial or municipal solid waste;

19. for each permit included on the list required in §519.C.18 above, provide a list of all environmental regulatory violations, if any, cited by applicable local, state or federal regulatory agencies, including all resulting notices of violation, compliance orders, penalty assessments, or other enforcement actions and the current compliance status of each violation;

20. the names and addresses of the official journal of the parish in which the proposed facility will be located and the journal of general circulation in the area where the proposed facility is to be located, if different from the official parish journal;

21. certification by an authorized representative of the applicant that information submitted in the application is true, accurate and complete to the best of the applicant's knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§521. Permit Application Requirements for a Transfer Station

A. The application for construction and operation of a transfer station by an existing Louisiana commercial facility permitted by the Office of Conservation shall include, but may not be limited to, the information required in §519.C.

B. The application for construction and operation of a transfer station by the operator of an out-of-state, legally permitted commercial facility shall consist of the following:

1. compliance with the notice of intent requirements of §519.B; and

2. submission of the information required in §519.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§523. Permit Application Requirements for Land Treatment Systems

A. In addition to the information requested in §519.C above, the information required in this section must be provided in duplicate in each application for approval of a commercial facility incorporating the use of land treatment cells.

B. A detailed description of the site considered for land treatment with relation to the following:

1. past and present land use;

2. geology/soil properties/hydrogeology;

3. drainage and flood control;
 4. hydrologic balance; and
 5. highest seasonal groundwater level.
- C. A detailed description of the facility design including maps and drawings and a discussion of the following:
1. site layout;
 2. proposed waste application technique;
 3. drainage control;
 4. proposed waste loading rate; and
 5. expected facility life.
- D. An explanation of the proposed waste management plan with reference to the following topics:
1. sampling and testing of incoming waste;
 2. method of receiving waste;
 3. waste segregation;
 4. application scheduling;
 5. waste-soil mixing;
 6. proposed land treatment cell and groundwater monitoring plan;
 7. reuse stockpile management plan (see §565.G); and
 8. an air emissions (odor) reduction and monitoring plan that addresses such sources as:
 - a. the volatilization of organic materials and/or hydrogen sulfide in the waste;
 - b. particulate matter (dust) carried by the wind;
 - c. periodic removal and subsequent handling of free oil; and
 - d. chemical reactions (e.g., production of hydrogen sulfide from sulfur-bearing wastes).

E. Detailed information concerning closure and post-closure activities and monitoring as follows:

1. proposed closure procedures;
2. post-closure maintenance; and
3. closure and post-closure monitoring.

F. Documentation of compliance with the location criteria of §507.A.4 and 5.

G. Documentation that the land treatment facility operation requirements of §549 can be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:

§525. Permit Application Requirements for Other Treatment and Disposal Options

- A. In addition to the information requested in §519.C, the following information required in this section must be provided in duplicate in each application for approval of a commercial facility incorporating the use of treatment and/or disposal options other than land treatment and as defined in §547.
- B. A detailed description of the site with relation to the following:
1. past and present land use;
 2. geology/soil properties/hydrogeology;
 3. drainage and flood control;
 4. hydrologic balance; and
 5. highest seasonal groundwater level.

C. A detailed description of the facility design including maps and drawings and a discussion of the following:

1. site layout;
2. proposed waste application technique;
3. drainage control;
4. proposed waste treatment rates; and
5. expected facility life;

D. An explanation of the proposed management plan with reference to the following topics:

1. sampling and testing of incoming waste (waste acceptance procedures);
2. method of receiving waste;
3. waste segregation;
4. proposed waste treatment monitoring plan;
5. reuse stockpile management plan (see §565.G); and
6. air emissions reduction and monitoring plan that addresses such sources as:
 - a. the volatilization of organic materials and/or hydrogen sulfide in the waste;
 - b. particulate matter (dust) carried by the wind;
 - c. periodic removal and subsequent handling of free oil; and
 - d. chemical reactions (e.g., production of hydrogen sulfide from sulfur-bearing wastes).

E. Detailed information concerning closure and post-closure activities and monitoring as follows:

1. proposed closure procedures;
2. post-closure maintenance; and
3. closure and post-closure monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:

§527. Permitting Procedures

A. The Office of Conservation will review a new commercial facility application within 90 days of receipt and inform the applicant of its completeness.

B. If the application is not complete, the applicant shall be advised of additional information to be submitted for approval or the application shall be returned and the applicant will be required to resubmit the application.

C. Upon acceptance of the application as complete, the Office of Conservation shall set a time and date and secure a location for the required public hearing to be held in the affected parish.

D. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Administrative Procedure Act. All interested persons shall be allowed the opportunity to present testimony, facts, or evidence related to the application or to ask questions.

E. At least 30 days prior to the hearing, the applicant is required to file six copies of the complete application with the local governing authority of the parish in which the proposed facility is to be located to be made available for public review. Two additional copies of the complete application shall be filed in the parish library closest to the proposed facility.

F. Permit Issuance

1. The commissioner shall issue a final permit decision within 120 days of the close of the public comment period.

2. A final permit decision shall become effective on the date of issuance.

3. A permit to construct a commercial facility (and any associated disposal well) will not be granted until a certified copy of a lease or proof of ownership of the property where the proposed facility is to be located is submitted to the Office of Conservation.

4. Approval or the granting of a permit to construct a commercial facility (and any associated disposal well) shall be valid for a period of one year and if construction is not completed in that time, the permit shall be null and void. Requests for an extension of this one year requirement may be approved by the commissioner for extenuating circumstances only.

G. The application for construction and operation of a new or additional transfer station by an existing commercial E&P waste treatment and/or disposal facility permitted by the Office of Conservation to operate within the State of Louisiana shall be administratively approved or denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Promulgated by the Department of Natural Resources, Office of Conservation LR 27:

§529. Public Notice Requirements

A. Permit Application Public Hearing Notice

1. Upon acceptance of the application as complete, the Office of Conservation shall publish in the next available issue of the *Louisiana Register*, a notice of the filing and the location, date and time of the public hearing to be held in the affected parish. Such public hearing shall not be less than 30 days from the date of notice in the *Louisiana Register*.

2. At least 30 days prior to the scheduled public hearing, the Office of Conservation shall publish a notice of the filing of the application and the location, date and time of the hearing in the official state journal.

3. The applicant shall publish a substantially similar notice in the official journal of the affected parish and in the journal of general circulation in the area where the proposed facility is to be located, if different from the official parish journal, on three separate days at least 15 days prior to the date of the hearing. Such notice shall not be less than one-quarter page in size and printed in boldface type.

B. Applications submitted on Form UIC-2 SWD (or latest revision) for a new commercial saltwater disposal well or Form UIC-32 (or latest revision) to recomplete a Class II commercial disposal well into a new disposal zone shall be advertised once in the legal ad section of the official state journal, in the official parish journal where the facility is located and in the journal of general circulation in the area where the facility is located, if different from the official parish journal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§531. Permitting Conditions

A. The Office of Conservation may refuse to issue, reissue, or reinstate a commercial facility permit or authorization to the following:

1. any individual, partnership or other entity which has been found to have violated Statewide Order No. 29-B or has other violations which include, but is not limited to, failure to provide for proper closure of an oil, gas or commercial facility and/or site, failure to pay all fees, or failure to pay all civil penalties;

2. any individual, partnership, corporation or other entity for which a general partner, an owner of more than twenty-five percent ownership interest, a trustee, or other individual having direct or indirect control of the entity has held a position of ownership and/or control in another partnership, corporation or other entity which has been found to have violated Statewide Order No. 29-B or has other violations which include, but is not limited to, failure to provide for proper closure of an oil, gas or commercial facility and/or site, failure to pay all fees, or failure to pay all civil penalties;

3. any individual, partnership, corporation or other entity for which a general partner, an owner of more than twenty-five percent ownership interest, a trustee, or other individual having direct or indirect control of the entity has held a position of ownership and/or control in another partnership, corporation or other entity which has been found, either contemporaneously with or discovered later, to have submitted false or intentionally misleading reports or responses to the orders of the Office of Conservation.

B. The Office of Conservation may refuse to issue, reissue, or reinstate a commercial facility permit or authorization to an individual or entity that has committed a violation of Statewide Order No. 29-B or other violations which may subject it to the penalty set forth herein if any one of the following has occurred.

1. An order finding the violation has been entered against the individual or entity and all appeals have been exhausted or the individual or entity has failed to timely and appropriately request a hearing and the individual or entity is not in compliance or on a schedule for compliance with an order.

2. The assistant secretary and the individual or entity have entered into an agreed order relating to the alleged violation and the individual or entity is not in compliance or on a schedule of compliance with an order.

C. The provisions of §531.A.2 above, which limit the ability of the Office of Conservation to refuse to issue, reissue or reinstate a permit or authorization, shall not apply to issues related to violations which are discovered after the entity has ceased operations or gone out of business.

D. The commissioner may deny an application for a commercial facility based upon the regulatory compliance history of the applicant required in §519.C.17, 18 and 19.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:

§533. General Operational Requirements for Commercial Facilities and Transfer Stations

A. Commercial facilities and transfer stations shall be operated in compliance with, but not limited to, the following.

1. The area within the confines of tank retaining walls (levees) shall be kept free of debris, trash, and accumulations of oil or other materials which may constitute a fire hazard. Portable gasoline powered engines and pumps must be supervised at all times of operation and stored at least 50' from tank battery firewalls when not in use. Vent lines must be installed on all E&P waste storage tanks and must extend outside of tank battery firewalls.

2. The area within the confines of tank retaining walls (levees) must be kept free of accumulations of E&P waste fluids and water. Such fluids shall be properly disposed of by injection into a Class II well or discharged in accordance with the conditions of a discharge permit granted by the appropriate state agency.

3. Tank retaining walls and land treatment cell levees shall be kept free of debris, trash, or overgrowth which would constitute a fire hazard or hamper or prevent adequate inspection.

4. Land treatment cell and associated surface drainage system surfaces shall at no time have an accumulation of oil of more than one-half inch at any surface location.

5. Land treatment cell levels shall be maintained with at least two feet of freeboard at all times.

6. Tank retaining walls (levees) must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. The levees must be properly tied into the barrier along the bottom and sides of the levees. All levees must be provided with a means to prevent erosion and other degradation.

B. All facilities and systems of treatment, control, and monitoring (and related appurtenances) which are installed or used to achieve compliance with the conditions of a permit shall be properly operated and maintained at all times.

C. Inspection and entry by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

D. Discharges from land treatment cells, tanks, tank retaining walls and/or barges into man-made or natural drainage or directly into state waters will be allowed only after the necessary discharge permit has been obtained from the appropriate state and/or federal agencies and in accordance with the conditions of such permit.

E. A sign shall be prepared, displayed and maintained at the entry of each permitted commercial facility or transfer station. Such sign shall utilize a minimum of one-inch lettering to state the facility name, address, phone number, and site code shall be made applicable to the activities of each facility according to the following example:

"This waste (storage, treatment and/or disposal) facility has been approved for (temporary storage, treatment and/or disposal) of exploration and production waste only and is regulated by the Office of Conservation. Violations shall be reported to the Office of Conservation at (225) 342-5515."

F. A vertical aerial color photograph (or series of photographs) with stereoscopic coverage of each Type A land treatment facility must be obtained during the month of

October every two years and provided to the Office of Conservation by November 30 of the year the photo is taken. Such photograph(s) must be taken at an original photo scale of 1" = 1000' to 1" = 500' depending on the size of the facility. Photo(s) are to be provided as prints in either 8" x 10" or 9" x 9" formats. The commissioner may require more frequent aerial photos as deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§535. Notification Requirements

A. Any change in the principal officers, management, or ownership of an approved commercial facility must be reported to the commissioner in writing within 10 days of the change.

B. Transfer of Ownership

1. A commercial facility permit may be transferred to a new owner or operator only upon approval by the commissioner. The new owner or operator must apply for and receive an operator code by submitting a completed Form OR-1 (or latest revision) to the Office of Conservation.

2. The current permittee shall submit an application for transfer at least 30 days before the proposed transfer date. The application shall contain the following:

a. name and address of the proposed new owner (permittee);

b. date of proposed transfer; and

c. a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, financial responsibility, and liability between them.

3. If no agreement described in §535.B.2.c above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing permittee to the new permittee on the date the transfer is approved.

C. Commercial facility operators shall give written notice to the commissioner of any planned physical or operational alterations or additions to a permitted facility or proposed changes in the waste management plan. Requests to make such changes must be submitted to and approved by the commissioner prior to beginning construction or accomplishing the change by other means.

D. The operator of a newly approved commercial facility, and/or disposal well must notify the commissioner when construction is complete. The operator shall not commence receiving exploration and production waste or injecting E&P waste fluids until the facility has been inspected for compliance with the conditions of the permit and the disposal well has been tested for mechanical integrity.

E. An operator of a commercial facility shall report to the commissioner any noncompliance, including but not limited to those which may endanger public health, safety or welfare or the environment, including, but not limited to, impacts to surface waters, groundwater aquifers and underground sources of drinking water, whether onsite or offsite. Such notice shall be made orally within 24 hours of the noncompliance and followed by written notification within five days explaining details and proposed methods of corrective action.

F. When a commercial facility operator refuses to accept a load of waste (other than exploration and production waste), he shall notify the Office of Conservation immediately by electronic submission (facsimile) of a completed Form UIC-26 and the manifest which accompanied the shipment of waste, providing the names of the generator and transporter of the waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§537. Hours of Receiving

A. Commercial facilities and transfer stations shall be adequately manned during hours of receiving and shall receive exploration and production waste by truck during daylight hours only. Daylight hours shall be defined as the daily hours for sunrise and sunset as listed in table Number 1119 entitled "Sunrise and Sunset at Baton Rouge, Louisiana," prepared by the Nautical Almanac Office, United States Naval Observatory, Washington, DC 20390.

B. The commissioner may grant approval for after hours (nighttime) receipt of exploration and production waste by a commercial facility (by truck) when an emergency condition exists which may endanger public health or safety or the environment and to minimize the potential for same. Generators shall be responsible for obtaining prior approval for nighttime disposal by calling the Office of Conservation at (225) 342-5515. When such approval has been granted, the Office of Conservation shall notify the commercial facility which will receive the waste and may notice the state police.

C. Commercial facilities with barge terminals may receive E&P waste transported by barge on a 24-hour a day basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§539. Monitoring Requirements for Commercial Class II Injection Wells

A. Except during approved workover operations, a positive pressure of no less than 100 psi shall be maintained on the well annulus at all times. An injection volume recorder (tamper proof meter) must be installed and properly maintained on the injection line of each disposal well system. Injected volumes must be recorded monthly and the readings reported monthly on the Commercial Class II Daily Monitoring Log (Form UIC-21, or latest revision) and annually on the annual injection well report.

B. Except during approved workover operations, wells shall be equipped with pressure gauges located on the wellhead, and situated so as to monitor the pressure of the injection stream and the pressure of the annular space between the casing and the injection string.

C. The pressure gauges shall have half-inch fittings, be scaled in increments of not more than 10 psi, and be maintained in good working order at all times.

D. A daily pressure monitoring log shall be maintained by the operator of the facility and shall contain, as a minimum, the following information:

1. the date;
2. the operator's name and address;
3. the well name, number and serial number;

4. the monitored injection pressure;
5. the monitored annulus pressure;
6. whether or not the well was injecting at the time the pressures were recorded; and
7. the name or initials of the person logging the information.

E. The pressure gauges shall be read and pressures recorded in the daily log.

F. The daily log information shall be recorded on the appropriate form and submitted to the Office of Conservation within 15 days of the end of each month.

G. Any discrepancies in the monitored pressures, which would indicate a lack of mechanical integrity and constitute noncompliance with applicable sections of this chapter, shall be reported orally to the Office of Conservation within 24 hours.

H. The commissioner may require, on a case-by-case basis, the installation of a 24-hour chart recorder to monitor injection pressures, injection rates, annulus pressure and injected volumes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§541. Sampling and Testing Requirements for Commercial Facilities with Monitor Wells

A. At the discretion of or as determined by the Commissioner, monitor wells may be required to be installed at any commercial facility.

B. Water samples from monitor wells shall be sampled by an independent professional consultant and analyzed by an independent testing laboratory. Samples shall be analyzed for pH, electrical conductivity (EC), chloride (Cl), sodium (Na), total dissolved solids (TDS), total suspended solids (TSS), total petroleum hydrocarbons (TPH-ppm), total benzene, As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, and Zn.

C. Water from newly constructed monitor wells on new facilities shall be sampled and analyzed prior to receipt of waste materials by the facility to provide baseline data for the monitoring system. This data shall be submitted to the Office of Conservation to be made part of the facility's permanent file.

D. Water from monitor wells on existing facilities shall be sampled and analyzed on a quarterly basis, with a copy of the analysis submitted to the Office of Conservation within 15 days of the end of each quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§543. Receipt, Sampling and Testing of Exploration and Production Waste

A. Only E&P waste (as defined in §501) from approved generators of record may be received at commercial facilities. Other generators of E&P waste must receive written approval of the Office of Conservation in order to dispose of approved waste at a commercial facility.

B. For screening purposes and before offloading at a commercial facility, each load of exploration and production waste shall be sampled and analyzed (by facility personnel) for the following parameters:

1. pH, electrical conductivity, chloride (Cl) content;
2. NORM, as required by applicable DEQ regulations and requirements.

C. The commercial facility operator shall enter the pH, electrical conductivity, and chloride (Cl) content on the manifest (Form UIC-28, or latest revision) which accompanies each load of E&P waste.

D. An 8-ounce sample (minimum) of each load must be collected and labeled with the date, operator and manifest number. Each sample shall be retained for a period of 30 days.

E. Records of these tests performed pursuant to the requirements of this Section shall be kept on file at each facility for a period of three years and be available for review by the commissioner or his designated representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:

§545. Manifest System

A. In order to adequately monitor the movement and disposal of exploration and production waste, every shipment of waste transported to a commercial facility shall be accompanied by a manifest entitled "E&P Waste Shipping Control Ticket." It is expressly forbidden to transport or accept such waste without a properly completed manifest form.

B. For companies who do not possess an Office of Conservation operator code number, Form UIC-23 (or latest revision) must be approved prior to transporting E&P waste (including Waste Type 99) to a commercial facility.

C. For those generators who do possess an operator code number, authorization must be obtained prior to transporting Waste Type 99 to a commercial facility.

D. At the time of transport, the generator shall initiate the manifest by completing and signing Part I. After the transporter completes and signs Part II, the generator shall retain Generator Copy No. 1 (green) for his files. All other copies shall accompany the waste shipment.

E. Upon delivery of the waste, the commercial facility shall complete and sign Part III of the manifest. The transporter shall then retain the Transporter's Copy (pink) for his files.

F. Upon completion of the manifest, the commercial facility operator shall mail Generator Copy No. 2 to the generator.

G. The original manifest (Conservation Copy) for each load of waste received must be retained by the commercial facility operator and stored in a secure and accurate filing system at the location (commercial facility site) where the waste (manifest) was received (destination of waste).

H. Original manifests must be retained for a period of not less than three years in a manner acceptable to the Commissioner of Conservation and made available for review or submitted to the Office of Conservation upon request.

I. The generator, transporter and commercial facility operator shall maintain file copies of completed manifests for a period of not less than three years.

J. Oil and gas, commercial facility, and transfer station operators who transport E&P waste out-of-state to a permitted disposal facility or receive E&P waste from out-

of-state must comply with the manifest system requirements of this Section.

K. A monthly report of waste receipts shall be completed by each commercial facility on Form UIC-19, or latest revision, and submitted to the Office of Conservation within 15 days of the end of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§547. Commercial Exploration and Production Waste Treatment and Disposal Options

A. Commercial facilities may be permitted to conduct one or more of the following acceptable commercial exploration and production waste treatment and disposal options.

1. Class II Injection Well. E&P waste fluids are required to be disposed by injection into a Class II well. Class II wells may be operated in conjunction with other treatment and disposal options. The requirements for permitting a Class II well are found in Chapter 4 of these regulations (LAC 43:XIX.401 et seq.).

2. Class II Well Slurry Fracture Injection. The process of mixing exploration and production waste solids with fluids for subsurface injection. The solids/fluids mixture (slurry) is then pumped at or above fracture gradients into a suitably characterized subsurface reservoir. A series of fractures are created forming a sphere around the perforated interval. These fractures grow at different orientations around the wellbore and constitute the disposal domain. Slurry fracture injection can only be approved when appropriate regulations are adopted/promulgated.

3. Land Treatment. A dynamic process involving the controlled application of exploration and production waste onto or into the aerobic surface soil horizon by a commercial facility, accompanied by continued monitoring and management, to alter the physical, chemical, and biological state of the waste. Site, soil, climate, and biological activity interact as a system to degrade and immobilize waste constituents thereby rendering the area suitable for the support of vegetative growth and providing for beneficial future land use or to meet the reuse criteria of §565. The requirements for permitting a land treatment system are found in §519.C and §523.

4. Phase Separation. The process of treating or pretreating oil and gas exploration and production waste by physical and/or chemical methods which separate the fluid (water), solid, and oily fractions. Such process can be accomplished by any number of methods, including, but not limited to the use of a centrifuge, belt-press, flocculation, or other methods. The fractions are then further treated or disposed by other acceptable methods. Fluids generally are required to be disposed of into a Class II disposal well. Solids may be further treated or disposed of by one of the options listed herewith. Oil may be sent to a salvage oil reclaimer or sold to a refiner. The equipment and processes utilized in phase separation of E&P waste must be described in detail in the permit application.

5. Thermal Desorption. The process of heating exploration and production waste in an enclosed chamber under either oxidizing or non-oxidizing atmospheres at sufficient temperature and residence time to vaporize

organic contaminants from contaminated surfaces and surface pores and to remove the contaminants from the heating chamber in a gaseous exhaust system. The equipment and processes utilized in thermal desorption of E&P waste must be described in detail in the permit application. The criteria for treatment of E&P waste by thermal desorption will be set on a case-by-case basis.

6. Cavern Disposal. The utilization of a solution-mined salt cavern for the disposal of E&P waste fluids and solids. Cavern disposal can only be approved when appropriate regulations are adopted/promulgated.

7. Incineration. The burning of organic waste materials. This treatment/disposal technique is used to destroy organic compounds with the reduction of the material to its mineral constituents. The equipment and processes utilized to incinerate E&P waste must be described in detail in the permit application. The criteria for treatment of E&P waste by incineration will be set on a case-by-case basis.

8. Solidification (Chemical Fixation). The addition of agents to convert liquid or semi-liquid E&P waste to a solid before burial to reduce leaching of waste material and the possible migration of the waste or its constituents from the facility. The equipment and processes utilized to solidify E&P waste must be described in detail in the permit application. The criteria for treatment of E&P waste by solidification will be set on a case-by-case basis.

9. Stabilization (Chemical Fixation). A waste treatment process that decreases the mobility or solubility of waste constituents by means other than solidification. Examples of stabilization techniques include chemical precipitation or pH alteration to limit solubility and mixing of waste with sorbents such as fly ash to remove free liquids. The equipment and processes utilized to stabilize E&P waste must be described in detail in the permit application. The criteria for treatment of E&P waste by stabilization will be set on a case-by-case basis.

B. The Office of Conservation will consider new and innovative treatment and/or disposal options on a case-by-case basis. The equipment and processes utilized by technologies other than those listed above to treat or dispose of E&P waste must be described in detail in the permit application. The criteria for treatment of E&P waste by other technologies will be set on a case-by-case basis.

C. Class II well injection/disposal is limited to clean, low solids content (< 3 % solids) E&P waste fluids.

D. Waste Types 02, 03, 04 (low density, low salt content only), 05, 06 (and associated wash water), 07, 09, 10, 11, 14, 15, 16, and 99 may be treated and disposed by land treatment methods, within the 1000' (all waste types) and 2000' (Waste Type 06) buffer requirements of §507.A.2.

E. Waste Type 12 and wash water (Waste Type 10) generated in the cleaning of vessels containing Waste Type 12 may not be land treated unless the MPC requirements of §503.E and §549.C.7.a are met.

F. All E&P waste types may be treated or disposed by Class II slurry fracture injection, phase separation, thermal desorption, cavern disposal, incineration, solidification or stabilization methods.

G. Transfer stations may receive all E&P waste types without restriction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§549. Land Treatment Facility Requirements

A. Land treatment facilities shall be isolated from contact with public, private, or livestock water supplies, both surface and underground.

B. The siting, design, construction, operation, testing and closure of land treatment facilities shall be approved only after an application is submitted to and approved by the commissioner pursuant to the requirements of §519, §527, and §531.

C. General Requirements

1. The soil shall contain a slowly permeable horizon no less than 12 inches thick containing enough fine grained material within three feet of the surface to classify it as CL, OL, MH, CH, or OH under the Unified Soil Classification System.

2. The seasonal high water table shall be maintained throughout the facility's operational life at least 36" below the soil surface, either as a result of natural or artificial drainage.

3. Throughout the operational life of a land treatment cell, in order to end the treatment phase and re-enter the application phase, a cell must be shown to comply with the following criteria:

Parameter	Limitation
PH	6.5-9
EC	10 mmhos/cm
SAR	12
ESP	15 percent
TPH	3 percent (by weight)
Metals (ppm)	
Arsenic	40
Total Barium	100,000
Cadmium	10
Chromium	1,000
Copper	1,500
Lead	300
Molybdenum	18
Nickel	420
Mercury	10
Selenium	10
Silver	200
Zinc	500

4. The concentration of measured constituents in any groundwater aquifer shall at no time significantly exceed background water quality data.

5. Fluids collected in a land treatment cell underdrain system shall be monitored to provide early warning of possible migration of mobile waste constituents. The monitoring program shall be defined in the permit application or the facility waste management and operations plan.

6. An independent professional consultant and laboratory shall perform the necessary monitoring to assure adherence to the requirements of this Section.

7. Waste Pretreatment and Treatment

a. Waste Type 12 which meets an MPC criteria of no more than 236 mg/kg total benzene may be placed on land treatment cells without pretreatment.

b. Land treatment facilities which have been approved to receive Waste Type 12 which does not meet the MPC criteria of this paragraph must pretreat the waste to below the MPC criteria before placing the waste on a land treatment cell (see §505.B).

c. Free/visible oil must be removed from all E&P waste prior to loading on a land treatment cell.

d. Produced saltwater, high density/high salt content workover and completion fluids and stimulation fluids must not be disposed of by land treatment. If pretreated prior to disposal (e.g., filtered or otherwise phase separated) fluids must be injected into a Class II well. Generated solids/sludges may not be land treated.

8. Application Phase

a. E&P waste may be applied to active land treatment cells during the application phase only. An application phase begins only under the following conditions:

i. a new constructed and approved cell begins receipt of E&P waste;

ii. a cell containing treated E&P waste has been shown to meet the testing criteria of §549.C and is utilized for the application of new waste receipts;

iii. a cell from which treated oilfield waste has been removed (after meeting the reuse testing criteria of §565) is utilized for the application of new waste receipts.

b. An application phase ends when either one of the following occurs:

i. three months have elapsed since the date application first began; or

ii. 15,000 bbls/acre of waste has been applied to a cell.

c. In order to document the amount of waste applied to each land treatment cell, facilities are required to:

i. indicate on each manifest (oilfield waste shipping control ticket) the number of the cell onto which each load of waste is applied;

ii. maintain a daily or weekly log of type and volume of wastes applied to each land treatment cell and the activities undertaken to bring each cell into compliance; and

iii. include in the quarterly report the amount of each type of waste applied to each cell and the activities undertaken to bring each cell into compliance during the quarter.

9. Treatment Phase. Upon completion of the application phase, land treatment cells enter the treatment phase. Remedial action (treatment) must be actively performed in order to bring a cell into compliance with this Section. Cells must reach compliance status within 12 months of the end of the application phase.

10. Land treatment cell levees must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. Levee construction material shall be compacted in a maximum of 8" lifts to > 90 percent standard proctor test. The levees must be properly tied into the barrier along the bottom and sides of the cells. Actual construction of the levees must be monitored and documented by professional engineering or

geotechnical soil testing company. All levees must be provided with a means to prevent erosion and other degradation.

11. Rainwater and other E&P waste fluids are not to be stored on land treatment cells. Such fluids are to be removed from cells in a timely manner and stored in appropriate facilities. Such fluids may only be used for removal of salts during the treatment phase. Otherwise, cells must remain free of excessive fluids.

12. Storm water retention (sediment) ponds constructed after January 1, 2002 must be constructed in compliance with the liner requirements for produced water pits in LAC 43:XIX.307.A and the land treatment levee requirements of §549.C.9 above.

D. Monitoring Requirements

NOTE: References for the parameters required in this Section are listed as follows:

EC—electrical conductivity (millimhos/cm for soil, micromhos/cm for water)

SAR—sodium adsorption ratio

ESP—exchangeable sodium percentage (percent)

CEC—cation exchange capacity (milliequivalents/100 gm soil)

TPH—total petroleum hydrocarbons (ppm)

Total benzene (ppm)

TCLP benzene (Toxicity Characteristic Leaching Procedure – ppm)

Total metals as follows:

As—arsenic

Ba—barium

Cd—cadmium

Cr—chromium

Cu—copper

Pb—lead

Hg—mercury

Mo—molybdenum

Ni—nickel

Se—selenium

Ag—silver

Zn—zinc

TDS—total dissolved solids

TSS—total suspended solids

Soluble cations:

Na—sodium

Ca—calcium

Mg—magnesium

Soluble anions:

CO₃—carbonate

HCO₃—bicarbonate

Cl—chloride

SO₄—sulfate

1. Prior to the receipt of E&P waste in a newly permitted and constructed land treatment system or cell, baseline data must be provided by the following sampling and testing program.

a. Soil in the treatment zone (0-24") of each cell must be sampled and tested for the following parameters: pH, EC, SAR, ESP, CEC, TPH, As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, and Zn.

b. Groundwater must be sampled and tested for the following parameters: pH, EC, TDS, TSS, TPH, Cl, Total Benzene, Na, As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, and Zn.

c. Water from land treatment cell underdrain systems must be sampled and tested for the following

parameters: TDS, pH, Na, Cl, EC, TPH, total benzene, Ba, Pb, Zn, and reactive sulfides.

2. The following monitoring program must be conducted during the active life of a permitted E&P waste land treatment system:

a. Soil in the treatment zone (waste treatment zone - WTZ and upper treatment zone - UTZ) must be sampled and tested quarterly to determine waste degradation and accumulation of metals and hydrocarbons. Samples must be analyzed for the following: As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, Zn, TOC, and TPH.

b. Soil in the treatment zone (waste treatment zone - WTZ and upper treatment zone - UTZ) must be sampled and tested quarterly to determine the accumulation of salts and to provide data for determining necessary soil amendments. Samples must be analyzed for the following: pH, EC, SAR, ESP, CEC, soluble cations (Na, Ca, Mg), and soluble anions (CO₃, HCO₃, Cl, SO₄).

c. Discharge Water. A copy of each discharge monitoring report made in conformance with any applicable state and/or federal regulatory program shall be furnished to the Office of Conservation on a timely basis.

d. Land treatment cell underdrain systems must be sampled and tested quarterly to determine the presence of mobile constituents. Sampling and testing shall be performed on a quarterly basis. A composite of at least three samples per management unit (or cell if applicable) are to be analyzed for the following: TDS, pH, Na, Cl, EC, TPH, total benzene, Ba, Pb, Zn and reactive sulfides. If total benzene exceeds an action level of 0.5 ppm, the commissioner may require further assessment and testing as deemed appropriate.

e. Groundwater levels in monitor wells shall be measured monthly for a period of two years to determine seasonal fluctuation in water table. Water level shall be measured quarterly each year thereafter.

f. Groundwater from monitor wells shall be sampled quarterly to determine the impact of facility operation on groundwater. Prior to obtaining discreet representative samples, each well must be purged in accordance with EPA guidance. A composite of at least two samples per well shall be tested for the following parameters: TDS, TSS, pH, Cl, Na, EC, TPH, total benzene, As, Ba, Cr, Pb, and Zn.

g. Quarterly monitoring reports must be submitted to the Office of Conservation according to the following schedule: 1st Quarter—due March 31; 2nd Quarter—due June 30; 3rd Quarter—due September 30; 4th Quarter—due December 31. Each quarterly report must contain the following information:

i. the status of each cell at the time of the sampling event (application phase, treatment phase, inactive, etc.), the date(s) sampling took place, and a diagram indicating sample locations for each cell;

ii. the amounts and types of oilfield waste applied to each cell during the application phase, including the beginning and ending dates of application;

iii. a brief description of treatment activities undertaken to bring each cell into compliance with the

criteria of this section, including the status of fluids (salts) removal from each cell;

iv. a compilation (chart) of test results for the present and past three quarterly sampling events;

v. copies of current laboratory test data;

vi. the size of each land treatment cell (in acres);

vii. a compilation (chart) of water depth measurements of monitor well water levels calculated from the top of casing;

viii. a potentiometric surface map contoured with water level elevations from mean sea level.

h. The Office of Conservation may approve an alternative monitoring program upon receipt of evidence that such procedure shall provide adequate monitoring during the active life of a facility.

3. Sampling and Testing Requirements

a. A stratified random sampling system shall be used to determine soil sampling locations in land treatment cells. All cells and monitor wells are to be sampled and tested for all parameters unless otherwise approved by the commissioner. Facilities are required to notify the Office of Conservation at least one week in advance of each quarterly sampling event in order for a representative of this office to be present.

b. Soil samples in land treatment cells shall be taken in the waste treatment zone (WTZ) and the upper treatment zone (UTZ). Over time, the depth of the treatment zone sampled may need to be increased due to solids buildup on land treatment cells. The degree of waste incorporation shall be noted at the time of sampling.

c. At least two samples must be taken from WTZ and UTZ for each acre of cell area.

d. Soil samples are to be analyzed using standard soil testing procedures as presented in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

e. Water samples are to be analyzed for required parameters according to acceptable EPA guidelines and/or the laboratory procedures as presented in the Laboratory Manual for the Analysis of Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

f. The soil in an inactive cell may not be required to be tested for certain quarterly monitoring parameters only after two consecutive quarterly tests indicate compliance and upon receipt of written approval of this office.

E. Closure and Post-Closure Monitoring

1. Operators of land treatment systems shall submit closure and post-closure maintenance and monitoring programs to the Office of Conservation for approval. The monitoring program shall address sampling and testing schedules for soil in the treatment zone, water collected from the unsaturated zone monitoring system, surface runoff water, and groundwater.

2. Sampling and testing must be performed during the entire closure and post-closure periods. To certify closure of a land treatment system, water collected from the unsaturated zone monitoring system and groundwater must meet background water quality values; in addition, soils in the treatment zone and surface runoff water must meet the following criteria:

Parameter	Criteria	No. of Consecutive Samples
Soils in the Treatment Zone		
PH	6.5-9	2
TPH	# 3.0 percent	2
EC	# 10 mmhos/cm	2
TCLP Benzene	# 0.5 ppm	2
SAR	# 12	2
ESP	# 15 percent	2
Metals (ppm)		
As	# 10	2
Ba	# 100,000	2
Cd	# 10	2
Cr	# 1000	2
Cu	# 1,500	2
Pb	# 1000	2
Hg	# 10	2
Mo	# 18	2
Ni	# 420	2
Se	# 10	2
Ag	# 200	2
Zn	# 500	2
Runoff Water		
PH	6.5-9.0	4
TPH	# 15 ppm	4
TCLP Benzene	# 0.5ppm	4
EC	# 2.0 mmhos/cm	4
SAR	# 10	4
TSS	# 60 ppm	4
COD	# 125 ppm	4
Chloride	500 ppm	4
Metals (ppm)		
As	# 0.2	4
Ba	# 10	4
Cd	# 0.05	4
Cr	# 0.15	4
Cu	# 1.3	4
Hg	# 0.01	4
Pb	# 0.10	4
Se	# 0.05	4
Zn	# 1.0	4

3. Post-closure monitoring shall be performed on intervals of 6 months, 1, 2 and 5 years following certification that closure is complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:

§551. Requirements for Phase Separation (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§553. Requirements for Thermal Desorption (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§555. Requirements for Cavern Disposal (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§557. Requirements for Incineration (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§559. Requirements for Solidification/Stabilization (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§561. (Reserved)

§563. (Reserved)

§565. Resource Conservation and Recovery of Exploration and Production Waste

A. In order to encourage the conservation and recovery of resources in the oilfield industry, the processing of exploration and production waste into reusable materials, in addition to or beyond extraction and separation methods which reclaim raw materials such as crude oil, diesel oil, etc., is recognized as a viable alternative to other methods of disposal.

B. Commercial facilities may function for the purpose of generating reusable material only, or they may generate reusable material in conjunction with other storage, treatment or disposal operations.

C. Commercial facilities that produce reusable material are subject to all of the permitting requirements imposed on other commercial facilities. They are also subject to the same operational requirements without regard to the distinction between waste and reusable material. Existing permits may be amended to allow re-use activities at commercial facilities which acquire the capability to engage in processing for re-use. Commercial facilities which utilize extraction or separation methods to reclaim raw materials such as crude oil, diesel oil, etc. may do so without amendment of existing permits.

D. The onsite generation of reusable material by pit treating companies or other companies which do not hold a legal commercial facility permit is prohibited unless the company desiring to perform such activities complies with the requirements of this Subparagraph and submits the following information to the commissioner for approval:

1. the names, addresses, and telephone numbers of the principal officers of the company;
2. a detailed description of the process by which the company will treat pit fluids and/or solids (E&P waste), including the types of chemicals and equipment used in the process, diagrams, test data, or other information;
3. a description of the geographical area in which the company expects to do business (i.e., statewide, north Louisiana, southwest Louisiana, etc.).

E. In addition to other applicable requirements, companies seeking to be permitted for the production of reusable materials from exploration and production waste shall have the following obligations.

1. Prior to permit approval or permit amendment approval, applicants must submit the following information:
 - a. a detailed description of the process to be employed for generation of reusable material;
 - b. types of facilities and/or equipment to be constructed (or added);

c. identification of the proposed uses for the reusable material; and

d. a description of the proposed monitoring plan to be utilized.

2. All proposed uses of reusable material must be approved by the commissioner in writing.

3. The production of reusable material must be conducted in accordance with a monitoring plan approved by the commissioner with issue of the permit for each facility or process.

4. For purposes of regulatory authority only by the Office of Conservation and the establishment of reusable material, compliance with the testing criteria of §565.F below allows permitted companies to offer the material for the following uses:

a. daily cover in sanitary landfills which are properly permitted by state and/or local authorities. The use of reusable material in a sanitary landfill will require written approval of the Department of Environmental Quality; and

b. various types of construction material (fill) on a case-by-case basis. The commissioner may approve such use only after submission and review of an application for the intended use. Approval will be dependent upon the composition of the material and the proposed location of use. Reusable material may not be used as fill for construction purposes unless the specific use has been approved in writing by the commissioner of Conservation.

F. Testing Criteria for Reusable Material

Parameter	Limitation
Moisture Content	< 50% (by weight) or zero free moisture
pH*	6.5 - 9.0
Electrical Conductivity (EC)	8 mmhos/cm
Sodium Adsorption Ratio (SAR)	12
Exchangeable Sodium Percentage (ESP)	15%
Total Barium:	
Reuse/Stockpile at Commercial Facility -	100,000 ppm
Reuse at Location other than Commercial Facility-	40,000 ppm
Leachate Testing** for:	
TPH	10.0 mg/l
Chlorides	500.0 mg/l
TCLP Benzene	0.5 mg/l
Leachate Testing**:	
Arsenic	0.5 mg/l
Barium	10.0 mg/l
Cadmium	0.1 mg/l
Chromium	0.5 mg/l
Copper	0.5 mg/l
Lead	0.5 mg/l
Mercury	0.02 mg/l
Molybdenum	0.5 mg/l
Nickel	0.5 mg/l
Selenium	0.1 mg/l
Silver	0.5 mg/l
Zinc	5.0 mg/l
NORM	Not to exceed Applicable DEQ Criteria/Limits

* E&P waste when chemically treated (fixated) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in §565.F above and Extraction Procedure for Toxicity (EP) tests for metals in §565.F above.

** The leachate testing method for TPH, chlorides and metals is included in the *Laboratory Manual for the Analysis of*

Oilfield Waste (Department of Natural Resources, August 9, 1988, or latest revision).

G. A reuse stockpile management plan shall be included in the waste management and operations plan and as a minimum, shall include the following:

1. dust emissions controls;
2. erosion control techniques; and
3. optimum pile height and slope.

H. The Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana upon issuance of a permit to a company facility under this Subsection shall be held harmless from and indemnified for any and all liabilities arising from the operation of such facilities and use of their products, and the company shall execute such agreements as the commissioner requires for this purpose.

I. Reporting. Each company which generates reusable material must furnish the commissioner a monthly report showing the disposition of all such material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§567. Closure

A. All offsite commercial facilities and transfer stations under the jurisdiction of the Office of Conservation shall be closed in a manner approved by the commissioner to insure protection of the public health, safety and welfare or the environment, surface waters, groundwater aquifers and underground sources of drinking water. A plan for closure must be developed in accordance with the requirements of the commissioner.

B. Closure bond or letter of credit amounts will be reviewed each year prior to the renewal date according to the following process.

1. A detailed cost estimate for adequate closure of each permitted commercial facility and transfer station shall be prepared by a independent professional consultant and submitted to the commissioner on or before February 1 of each year.

2. The closure plan and cost estimate must include provisions or closure acceptable to the commissioner and must be designed to reflect the costs to the Office of Conservation to complete the approved closure of the facility.

3. Upon review of the cost estimate, the commissioner may increase, decrease or allow the amount of the bond or letter of credit to remain the same.

4. Documentation that the required closure bond or letter of credit has been renewed must be received by September 15 of each year or the commissioner shall initiate procedures to take possession of the funds guaranteed by the bond or letter of credit and suspend or revoke the permit under which the facility is operated. In addition, procedures to initiate permit suspension will be initiated. Any such permit suspension will remain in effect until renewal is documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

§569. Exceptions

A. The commissioner may grant an exception to any provision of this amendment upon proof of good cause. The operator must show proof that such an exception will not endanger USDW's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

Family Impact Statement

In accordance with LSA-RS. 49:972, the following statements are submitted after consideration of the impact of the proposed rule on family as defined therein.

1. The proposed rules will have no effect on the stability of the family.

2. The proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed rules will have no effect on the functioning of the family.

4. The proposed rules will have no effect on family earnings and family budget.

5. The proposed rules will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed rules.

If interested parties have any questions concerning this draft rule change please contact Carroll Wascom, Director, Injection and Mining Division, Office of Conservation, P O Box 94275, Baton Rouge, LA 70804-9275 or by calling (225) 342-5515.

In accordance with the provisions of R.S. 49:950 et seq. And R.S. 30:4, notice is hereby given that the Commissioner of Conservation will conduct a public hearing under Docket No. IMD 2001-11 at 10:00 am, Thursday, September 27, 2001, in the Conservation Hearing Room located on the First Floor of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana.

A copy of the proposed rule may also be obtained by accessing the Office of Conservation website through the Department of Natural Resources web site at www.dnr.state.la.us

All expert reports and data utilized in this study are available for review at the Office of Conservation, Injection & Mining Division, 2nd Floor, 625 North 4th St., Baton Rouge, La., or on the Conservation web page at www.dnr.state.la.us/CONS/Conserv.ssi.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 PM, Thursday, October 11, 2001, at the following address: Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, Louisiana 70804-9275, RE: Docket No. IMD 2001-11.

Philip N. Asprodites
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Statewide Order No. 29-B

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State and/or local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Disposal of gas plant waste at commercial landtreatment facilities will be prohibited unless such waste can be documented to meet the criteria provided in the proposed Rule. The proposed Amendment to Statewide Order No. 29-B will result in estimated additional annual costs of \$940,000 to operators of oil and gas wells opting to dispose of gas plant waste at permitted Subtitle C facilities regulated by the Louisiana Department of Environmental Quality.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Philip N. Asprodites
Commissioner
0108#095

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-B—Permits to Drill
(LAC 43:XIX.104)

The Louisiana Office of Conservation proposes to amend LAC 43:XIX.104 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 C (1), (2), (3), (6), (8), (9), (10), (14), (16) and I. These proposed rules amend the financial security requirements for applicable wells requiring Permits to Drill and Amended Permits to Drill.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§104. Financial Security

A. Unless otherwise provided by the statutes, rules and regulations of the Office of Conservation, financial security shall be required by the operator of record (operator) pursuant to this section for each applicable well as further set forth herein in order to ensure that such well is plugged and abandoned and associated site restoration is

accomplished A compliance order and/or civil penalty which has been timely satisfied shall not cause an operator to be considered a non-compliant operator for the purpose of this section.

1. Permit to Drill

a. Each well which requires an application for permit to drill from the Office of Conservation on and after July 1, 2000 must provide financial security in accordance with the following.

i. An operator who has exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation for a period of 48 months immediately preceding the permit date of the well and who has no outstanding violations shall be exempt from providing financial security under this section.

ii. An operator who has not been a registered operator of record for a period of 48 months immediately preceding the permit date of the well in question shall comply with the following.

(a). An operator who has not previously been an operator of a well (drilling, drilled or completed) shall provide financial security in a form acceptable to the commissioner prior to issuance of a permit to drill.

(b). An operator who has previously been an operator of a well (drilling, drilled or completed) for less than the prescribed 48 months but has otherwise exhibited a record of compliance with the statutes, rules and regulations of the Office of Conservation and who has no outstanding violations shall provide financial security in a form acceptable to the commissioner within 30 days of completion date as reported on Form Comp or Form WH-1.

iii. An operator who has not exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation for a period of 48 months immediately preceding the permit date of the well shall provide financial security in a form acceptable to the commissioner prior to issuance of permit to drill.

2. Amended Permit to Drill

a. Each well which requires an application to amend a permit to drill for change of operator must provide financial security in accordance with the following:

i. An operator who has previously been an operator of a well for a period of at least 48 months immediately preceding the amended permit to drill date, who has exhibited a record of compliance with the statutes, rules and regulations of the Office of Conservation and who has no outstanding violations shall be exempt from providing financial security under this section.

ii. Any operator who does not meet the criteria specified in 104.A.2.a.i. above shall provide financial security in a form acceptable to the commissioner prior to issuance of an amended permit to drill.

3. Financial security in a form acceptable to the commissioner shall be provided prior to issuance of a permit to drill or amended permit to drill to any operator which includes a primary officer therein who is or was a primary officer of an operator assigned an orphan status.

4. The financial security requirements provided herein shall apply to Class V wells as defined in LAC 43:XVII.103 for which an application for a permit to drill or amended permit to drill is submitted on and after July 1, 2000, at the discretion of the commissioner.

B. Compliance with this financial security requirement shall be provided by any of the following or a combination thereof:

1. certificate of deposit issued in sole favor of the Office of Conservation in a form prescribed by the commissioner from a financial institution acceptable to the commissioner. A certificate of deposit may not be withdrawn, canceled, rolled over or amended in any manner without the approval of the commissioner; or

2. a performance bond in sole favor of the Office of Conservation in a form prescribed by the commissioner issued by an appropriate institution authorized to do business in the state of Louisiana; or

3. letter of credit in sole favor of the Office of Conservation in a form prescribed by the commissioner issued by a financial institution acceptable to the commissioner.

C. Financial Security Amount

1. Land Location

a. Individual well financial security shall be provided in accordance with the following:

Depth	Amount
§3000'	\$1.00 per foot
3001 - 10000'	\$2.00 per foot
§10001'	\$3.00 per foot

b. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells	Amount
#10	\$ 25,000.00
11-99	\$125,000.00
§100	\$250,000.00

2. *Water Location—Inland Lakes and Bays*—any water location in the coastal zone area as defined in LSA-R.S. 49:214.27 except in a field designated as offshore by the commissioner.

a. Individual well financial security shall be provided in the amount of \$8.00 per foot of well depth.

b. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells	Amount
#10	\$ 125,000.00
11-99	\$ 625,000.00
§100	\$1,250,000.00

3. *Water Location—Offshore*—any water location in a field designated as offshore by the commissioner.

a. Individual well financial security shall be provided in the amount of \$12.00 per foot of well depth.

b. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells	Amount
#10	\$ 250,000.00
11-99	\$1,250,000.00

Total Number of Wells	Amount
\$100	\$2,500,000.00

4. An operator of land location wells and water location wells who elects to provide blanket financial security shall be subject to an amount determined by the water location requirements.

5. The amount of the financial security as specified above may be increased at the discretion of the commissioner.

D. A change of name by a compliant operator of record through acquisition, merger, or otherwise may not preclude said successor operator from meeting the requirements for exemption from financial security under this section.

E. The commissioner retains the right to utilize the financial security provided for a well in responding to an emergency applicable to said well in accordance with R.S. 30:6.1.

F. Financial security shall remain in effect until release thereof is granted by the commissioner pursuant to written request by the operator. Such release shall only be granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations or upon transfer of such well to an exempt operator. In the event provider of financial security becomes insolvent, operator shall provide substitute form of financial security within 30 days of notification thereof.

G. Plugging and abandonment of a well, associated site restoration, and release of financial security constitutes a rebuttable presumption of proper closure but does not relieve the operator from further claim by the commissioner should it be determined that further remedial action is required.

H. In the event that an operator has previously provided financial security pursuant to LAC 43:XIX.104, such operator shall provide increased financial security, if required to remain in compliance with this section, within 30 days after notice from the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:4, et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended by the Department of Natural Resources, Office of Conservation LR 26:1306 (June 2000), amended LR 27:

Family Impact Statement

In accordance with LSA-RS. 49:972, the following statements are submitted after consideration of the impact of the proposed rule on family as defined therein.

1. The proposed rules will have no effect on the stability of the family.

2. The proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed rules will have no effect on the functioning of the family.

4. The proposed rules will have no effect on family earnings and family budget.

5. The proposed rules will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed rules.

In accordance with the provisions of LSA-R.S. 49:951 et seq and LSA-R.S. 30:4, notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 9:00 a.m. on Tuesday, September 25, 2001, in the Conservation Auditorium, located on the First Floor of the State Land & Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana.

At such hearing the Commissioner of Conservation shall consider an amendment of LAC 43:XIX.104 regarding financial security requirements for applicable wells requiring Permits to Drill and Amended Permits to Drill.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with LSA-R.S. 49:953. Written comments will be accepted until 4:30 p.m., October 2, 2001 at the following address: Office of Conservation, Engineering Division - Room 102, Post Office Box 94275, Baton Rouge, LA 70804-9275, Re: Docket No. 01-618, Proposed Amendment to LAC 43:XIX.104.

Philip N. Asprodites
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Statewide Order No. 29-B** **Permits to Drill**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The oil and gas industry will be the only persons or non-governmental groups affected. Estimated increase in costs are FY 01/02 = \$425,497, FY 02/03 = \$850,994, and FY 03/04 = \$1,276,491. FY 00/01 Permits to Drill and Amended Permits to Drill processed were projected through FY 03/04.

For Amended Permits to Drill, total footage was determined for each category. Required bond value was determined by multiplying total footage in each category by per foot value or utilizing blanket bond consideration. Cost figure of 3% of bond value utilized in calculations.

For Permits to Drill, the total footage was determined by category for new operators. Footage by each category was reduced by 65% to account for productive wells for which financial security is now required. Required bond value was determined by multiplying remaining total footage in each category by per foot value. Cost figure of 3% of bond value utilized in calculations.

For the remaining Permits to Drill issued, the total footage was determined for the water location (offshore) category as per foot value has been increased for those wells. The total footage was multiplied by the cost differential and reduced by 35% to account for dry holes to determine change in bond value. Cost figure of 3% utilized in calculation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no effect on competition and employment.

Philip N. Asproditis Robert E. Hosse
Commissioner General Government Section Director
0108#070 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Withdrawal of Applications; Voluntary Surrender of
Licenses and Permits; Imposition of Sanctions;
Enforcement Actions of the Board
(LAC 42:III.121, 122, 42:VII.2325,
42:IX.4103, 42:XIII.2325)

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt LAC 42:III.121, and 122, to amend VII.2325, IX.4103 and XIII.2325 and to repeal LAC 42:VII.2155, 42:IX.2133, and 42:XIII.2155 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 III. Gaming Control Board

Chapter 1. General Provisions

§121. Withdrawal of Applications

A. A request for withdrawal of an application for any license, permit or finding of suitability may be made at any time prior to final action upon the application by the division by filing a written request to withdraw with the division. Final action by the division upon an application occurs when the division makes a recommendation to the board concerning the application.

B. The division may, in its discretion, deny the request, or grant the request with or without prejudice.

C. If a request for withdrawal is granted with prejudice, the applicant is not eligible to apply again for a license or permit until after the expiration of five years from the date of division's action on the request for withdrawal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:

§122. Voluntary Surrender of Licenses or Permits

A. A request for a voluntary surrender of a license or permit may be made at anytime prior to final action upon the license or permit by the division by filing a written request to withdraw with the division. Final action by the division upon a license or permit occurs when the division makes a recommendation to the board of revocation, suspension or the imposition of a penalty concerning the license or permit.

B. The division may, in its discretion, deny the request, or grant the request with or without prejudice.

C. If a request for a voluntary surrender of a license or permit is granted with prejudice, the licensee or permittee is not eligible to apply again for a license or permit until after the expiration of five years from the date of division's action on the request for voluntary surrender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:

Part VII. Pari-Mutuel Live

Racing Facility Slot Machine Gaming

Chapter 21. Licenses and Permits

§2155. Withdrawal of Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:737 (April 2000), repealed LR 27:

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

A. 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 licensee or permittee. 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's proscriptive period. The date of a prior violation shall be considered to be when the licensee, or permittee receives the significant action report or violation/inspection report. 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 \$100,000, 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 §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B. - D. ...

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
*	*	*	*
2954	Tournaments	5,000	12
*	*	*	*

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1321 (June 2000), LR 27:

Part IX. Landbased Casino Gaming

Chapter 21. Application; Suitability, Permitting and Licensing

§2133. Withdrawal of Application

Repealed.

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 25:1910 (October 1999), repealed LR 27:

Chapter 41. Enforcement Actions

§4103. Enforcement Actions of the Board

A. - A.4.e. ...

B. The Division may assess a civil penalty as provided 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 licensee, permittee or casino operator receives the significant action report or violation/inspection report. 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.

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 Correction, Gaming Control Board, LR 26:1900 (October 1999), amended LR 26:2306 (October 2000), LR 27:

Part. XIII. Riverboat Gaming

Chapter 21. Rules of Play

§2155. Withdrawal of Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), repealed LR 27:

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

A. 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 licensee or permittee. 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 licensee or

permittee receives the significant actor report or violation/inspection report. 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 \$100,000, 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 §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B.-D. ...

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
*	*	*	*
2954	Tournaments	5,000	12
*	*	*	*

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 26.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended by the Gaming Control Board, LR 26:1316 (June 2000), LR 27:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953, the Louisiana Gaming Control Board through its chairman, has considered the potential family impact of adopting LAC 42:III.121 and 122, amending VII.2325, XI.4103 and XIII.2325 and repealing 21:VII.2155, 42:IX.2133, and 42:VII.2155, 42:IX.2133, and 42:XIII.2155.

It is accordingly concluded that adopting LAC 42:III.121, and 122, amending VII.2325, IX.4103 and XIII/2325 and repealing LAC 42:VII.2155, 42:IX.2133, and 42:XIII.2155 would appear to have no impact on the following:

1. The effect on stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through September 9, 2001, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Withdrawal of Applications; Voluntary
Surrender of Licenses and Permits; Imposition of
Sanctions; Enforcement Actions of the Board**

**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 governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

An increase in revenue collections may result from amendments to LAC 42:VII.2325.A., IX.4103.A. and XIII.2325.A. since repeat violations of rules during a specified proscriptive period will be considered prior violations for penalty enhancement purposes regardless of whether a final decision has been rendered on the initial or prior violation. This amendment will have the effect of increasing penalties, however the amount of any increase is not susceptible of being projected.

No increase or decrease in revenue collections is estimated from other rules referenced in this statement. Previously the Board had amended rules regarding Promotions and Tournaments in the casino gaming industry regulations (LAC 42:VII.2953, IX.2922, 2923 and XIII.2953). Section 2953 was essentially divided into two sections, 2953 and 2954 and a penalty became necessary for the new sections, VII.2954 and XII.2954. Therefore, amendment to LAC 42:VII.2325.E. and XIII.2325.E. does not create a new penalty which should impact revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

No costs to directly affected persons are expected. Some applicants or licensees will be prohibited from reapplying for permits or licenses for a period of five years in rare situations when an applicant is allowed to withdraw an application with prejudice prior to final action by the Division, LAC 42:III.121 and when a licensee or permittee voluntarily surrenders its license or permit prior to final action by the Division, LAC 42:III.122. It is not anticipated that these rules will result in an actual economic cost to those directly affected persons.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0108#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Services Provided by Persons
Business Entities**

(LAC 55:III.1555, 1557, 1569, 1573,1575 and 1577)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority contained in R.S. 47:532.1, notice is hereby given that the Louisiana Department of Public Safety and Corrections, Office of

Motor Vehicles, proposes to amend existing rules, and to adopt new rules relative to the issuing of Class "D" and "E" driver's licenses by public tag agents. The proposed amendments and new rules would permit an approved public tag agent to conduct the knowledge and skills test required by an applicant for a Louisiana driver's license. These proposed rules would permit an approved public tag agent to issue a driver's license to an applicant who successfully completes the approved testing.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

**Chapter 15. Services Provided by Persons
Business Entities**

Subchapter B. Public Tag Agents

§1555. Convenience Fee

A. Public tag agents may collect a convenience in addition to any other fee or tax collected when processing a transaction for the Department. The convenience fee shall not exceed \$10, and shall be retained by the public tag agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December, 1999), amended LR 27:

§1557. Administrative Action

A. 1. The Assistant Secretary or his designee may suspend, revoke, cancel, or terminate the public tag agent's contract upon a violation by the agent or any agent's officers, directors, employees, owners, or other representatives of any responsibility or requirement established pursuant to the contractual agreement. LAC 55:III.Chapter 15.Subchapter B, or R.S. 47:532.1. In lieu of any of the previously listed actions, the Deputy Secretary may take other administrative action for such a violation including but not limited to the imposition of a fine or other sanction.

2. Additionally, the Assistant Secretary or his designee may suspend, revoke, cancel, or terminate the status of any person who is an employee, officer, director, or other representative of the public tag agent upon a violation of any responsibility or requirement established pursuant to the contractual agreement. LAC 55:III.Chapter 15. Subchapter B, or R.S. 47:532.1. It shall be the responsibility of the public tag agent to insure that all employees, officers, directors, or other representatives of the public tag agent are familiar with these responsibilities and requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December, 1999), amended LR 27:

* * *

§1569. Contracts

A. . . .

B. The contract between the Department and the public tag agent shall be on the form approved by the Assistant Secretary. The Department may require that a public tag agent sign separate contracts to perform the following functions:

1. processing title work and issuing of registration certificates and permanent license plates;
2. conducting testing for, and in the issuance of, class "D" and "E" driver's licenses;
3. processing the filing of electronic liens;
4. processing the reinstatement of driver's licenses and providing status information.

C. The contract between the Department and the public tag agent shall have a term of one year. The Department may provide for automatic renewals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2417 (December, 1999), amended LR 27:

* * *

§1573. Confidentiality

A. The public tag agent, its employees, representatives, and agents shall maintain the confidentiality of all records and information received or processed in connection with any function performed pursuant to a contract with the Department.

B. The public tag agent shall forward all request for information commonly referred to as public records request to the Department for a response.

C. The public tag agent shall be responsible for the disclosure of any information in connection with the processing of any transaction on behalf of the Department. The public tag agent shall comply with all applicable federal and state laws regarding the disclosure of information, including but not limited to 18 U.S.C. §2721 et seq., and 42 U.S.C. §405(c)(2)(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:

§1575. Driver=s License Issuance

A. A public tag agent may contract with the Department to administer the necessary tests and issue Class AD≅ and AE≅ driver=s licenses. The written knowledge test and the driving or skills test shall be administered in accordance with the provisions of LAC, Title 55, Part III, Chapter 1, Subchapter C.

B. The public tag agent=s Third Party Examiner shall utilize only Department approved visual screening equipment. In lieu thereof, each examiner may opt to utilize the standard Snellen wall-chart for visual acuity. The visual acuity testing shall be administered in manner approved by the Department

C. A public tag agent shall develop controls to secure the materials and equipment necessary to issue driver=s licenses. Such controls shall be submitted in writing to the Department. A public tag agent shall not issue any driver=s licenses until the controls required by this section have been approved by the Department in writing. Once approved, the controls shall be implemented as written. Any changes to the control approved by the Department shall be approved in writing prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:

§1577. Other Transactions

A. The Department may contract with public tag agents to perform other transactions authorized in R.S. 47:532.1. In such case, the public tag agent shall use the equipment and procedures required by the Department to process these transactions. The public tag agent shall use an approved written control plan to secure any materials or equipment as directed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:

Persons having comments or inquiries may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, LA 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by September 26, 2001. A public hearing on these rules is tentatively scheduled for Thursday, September 27, 2001, in the Executive Conference Room, Office of Motor Vehicles Headquarters, 109 S. Foster Drive, Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing. If the requisite number of comments are not received, no hearing will be held.

**Family Impact Statement
For Administrative Rules**

1. The Effect Of These Rules On The Stability Of The Family. These rules will have no adverse affect on the family. These will rules will make it more convenient for family members to obtain or renew a driver=s license by making additional locations available.

2. The Effect Of These Rules On The Authority And Rights Of Parents Regarding The Education And Supervision Of Their Children. These rules will have no adverse impact on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect Of These Rules On The Functioning Of The Family. These rules will have no adverse impact on the functioning of the family.

4. The Effect Of These Rules On Family Earnings And Family Budget. These rules will have no adverse impact on family earnings and family budget.

5. The Effect Of These Rules On The Behavior And Personal Responsibility Of Children. These rules will have no adverse impact on the behavior and personal responsibility of children.

6. The Effect Of These Rules On The Ability Of The Family Or Local Government To Perform The Function As Contained In The Proposed Rules. These rules will have no adverse impact on the ability of the family to perform the function as contained in the proposed rules. Local

governments are not affected by these rules as they neither obtain nor issue driver's licenses.

Jerry Jones
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Services Provided by Persons
Business Entities**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no costs or savings to the State to implement the proposed rules authorizing public tag agents to issue Class □D□ and □E□ driver's licenses. The Department will use existing resources to implement this program. There should be no costs or savings to local governmental units to implement the proposed rules authorizing third party testing of applicants for driver's licenses as only the State issues driver's licenses.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no affect on revenue collections by the State. The Department will still charge the normal license fee upon the issuance of the driver's license. There should be no effect on the revenue of local governmental units as only the State issues driver's licenses.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Those person who choose to avail themselves of the option of obtaining their Class □D□ or □E□ driver's license from a public tag agent will incur an additional charge of \$30 for the administration of the test and an additional charge convenience fee of \$10 for the issuance of the license.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There should be a positive impact on employment as approved public tag agents will need to hire employees to administer the knowledge and skills tests, and to issue the driver's license. There should be no affect on competition.

Jerry Jones
Undersecretary
0108#080

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Third Party Knowledge and Skills Testing
for Class "D" and "E"
(LAC 55:III.185 and 187)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority contained in

R.S. 32:408, notice is hereby given that the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, proposes to adopt new rules relative to the administration of knowledge and skills test by third parties to applicants for Class □D□ and □E□ driver's licenses. The proposed new rules would permit approved third parties to conduct the knowledge and skills test required of an applicant for a Louisiana driver's license.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

**Subchapter C. Third Party Knowledge and Skills Testing
for Class "D" and "E"**

§185. Eligibility, Application, Contract

A. All persons seeking to contract with the Department to administer the written knowledge test and the driving or skills test pursuant to R.S. 32:408 shall meet the following requirements:

1. successfully complete an OMV sanctioned examiners course;
2. have attained the age of 21 years;
3. have a high school diploma or its equivalent;
4. have a valid driver's license issued by the Department for the class of vehicle for which the applicant will administer the written knowledge test and the driving or skills test;

5. no third party examiner shall have been convicted of any felony or misdemeanor which would reflect unfavorably himself, or his employer or the State of Louisiana. Such offenses would include, but are not limited to any offense which has as an element, fraud, deceit, theft, false swearing, making false statement, or injuring public records, or any traffic offense requiring the suspension of a driver's license.

B. Any person seeking to contract with the Department to administer the written knowledge and driving or skills test shall submit an application on an approved form attaching all documents and information required by R.S. 32:408 and LAC 55, Part III, Chapter 1, Subchapter C.

C. All contracts shall have a term of one year from the effective date of the contract.

D. As with any contract, contracts confected pursuant to LAC 55, Part III, Chapter 1, Subchapter C, are renewable at the discretion of the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:

§187. Compliance

A. All third party examiners must comply with and abide by all applicable statutes and regulations as well all terms of the contract executed by the third party tester or third party examiner and the Department.

B. A third party tester and a third party examiner shall not commence administering the written knowledge test or the skills or driving test until authorized to do so by the Department.

C. If at any time, a third party tester or a third party examiner ceases to meet any requirement imposed by statute, the regulations, or the contract, the third party tester or the third party examiner shall immediately cease all testing authorized in the contract.

D. All third party examiners shall grant to any authorized personnel of the Department of Public Safety and Corrections the right to conduct random examinations, inspections, or audits of the records, premises, and equipment of the third party tester and the third party examiner without prior notice during business hours for compliance. Personnel of the Department of Public Safety and Corrections shall at least annually take the tests actually administered by third party examiners as if the employee were a test applicant, or the department shall at least annually test a sample of drivers who were examined by the third party examiner to compare pass/fail results.

E. The Third Party Tester and the Third Party Examiners shall utilize only forms, visual testing devices, computer/printer equipment, image capture equipment approved by the Department of Public Safety and Corrections, Office of Motor Vehicles.

F. The Third Party Tester and the Third Party Examiners shall maintain at its place of business a record of each applicant for whom a third party examiner has conducted an application, written test, visual examination, and the driving or skills test for a minimum of five years. Each such record shall include:

1. the applicant's name;
2. date of birth;
3. social security number (if the applicant has been issued a social security number);
4. the date each test was administered;
5. the score obtained by the applicant;
6. the score sheets for each test conducted;
7. the name and address and certificate number of the Third-Party Examiner administering said tests; and
8. the make/model/license plate number of any vehicle used to conduct the testing.

G. The Third Party Tester shall maintain at each place of business for a minimum of five years, a record of each certified third party examiner in the employ of the Third Party Tester to include:

1. a copy of the examiner's certificate issued by the State of Louisiana, Department of Public Safety;
2. a copy of the examiner's driving record, updated annually from the date of employment;
3. evidence of payroll employment status of the examiner;
4. copies of all third party examiner records, including the tests administered by the examiner.

H. All third party examiners shall submit to and receive approval from the Department of Public Safety and Corrections, Office of Motor Vehicles of a test route for use in the administration of skills testing to driver applicants for each location approved by the Department.

I. Third Party Testers and Third party examiners shall not to charge a driver/applicant a fee for the administering of the written knowledge and driving or skills test in excess of \$30.00.

J. Third Party Testers and Third Party Examiners shall post in a conspicuous place within its premises the certificate authorizing the Third Party Examiner to administer the written knowledge and driving or skills test.

K. Each Third Party Tester and Third Party Examiner shall utilize a Department-approved written test, through approved computer linking, to ensure all written tests are electronically controlled and all results are electronically recorded through the Department database.

L. In the administration of the driving or skills examination, each third party examiner shall measure the performance of the applicant in each of the following operational skills: observing, communicating, speed adjustment, vehicle positioning, time and space judgment, and hazard perception. In addition, each driving course layout shall include the following driving maneuvers, as a minimum, for scoring purposes:

1. two stop signs (one with obstructed view, if possible);
2. two traffic lights;
3. two lane changes;
4. two intersections, without turn;
5. two reversal procedures. Options:
 - a. into a parking spot and out of the parking spot; or
 - b. three point turn.
6. three left turns, one of which includes a left turn onto a multiple-lane roadway;
7. three right turns, one of which includes a right turn onto a multiple-lane roadway;
8. one quick stop;
9. one parking maneuver.

M. The scoring criteria shall be standardized, as determined and approved by the Department.

N. Third Party Testers and Third Party Examiners shall maintain a minimum limit of combined liability insurance coverage of \$1,000,000 per person with a minimum liability limit of \$2,000,000 per accident in connection with the administration of the driving or skills test. Third Party Testers and Third Party Examiners shall also maintain a minimum general liability policy of \$1,000,000. These policies shall provide primary coverage to the State of Louisiana, the Department, and the Department's employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:

Family Impact Statement

1. The Effect Of These Rules On The Stability Of The Family. These rules will have no adverse affect on the family. These will rules will make it more convenient for family members to obtain or renew a driver's license by making additional locations available.

2. The Effect Of These Rules On The Authority And Rights Of Parents Regarding The Education And Supervision Of Their Children. These rules will have no adverse impact on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect Of These Rules On The Functioning Of The Family. These rules will have no adverse impact on the functioning of the family.

4. The Effect Of These Rules On Family Earnings And Family Budget. These rules will have no adverse impact on Family Earnings And Family Budget.

5. The Effect Of These Rules On The Behavior And Personal Responsibility Of Children. These rules will have no adverse impact on the behavior and personal responsibility of children.

6. The Effect Of These Rules On The Ability Of The Family Or Local Government To Perform The Function As Contained In The Proposed Rules. These rules will have no adverse impact on the ability of the family to perform the function as contained in the proposed rules. Local governments are not affected by these rules as they neither obtain nor issue driver=s licenses.

Persons having comments or inquiries may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, LA 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by September 26, 2001. A public hearing on these rules is tentatively scheduled for Thursday, September 27, 2001, in the Executive Conference Room, Office of Motor Vehicles Headquarters, 109 S. Foster Drive, Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing. If the requisite number of comments are not received, no hearing will be held.

Jerry Jones
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Third Party Knowledge and Skills Testing for Class "D" and "E"

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no costs or savings to the State to implement the proposed rules authorizing third party testing of applicants for driver's licenses. The Department will use existing resources to implement this program. There should be no costs or savings to local governmental units to implement the proposed rules authorizing third party testing of applicants for driver's licenses as only the State issues driver's licenses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no affect on revenue collections by the State. The Department will still charge the normal license fee upon the issuance of the driver's license. There should be no effect on the revenue of local governmental units as only the State issues driver's licenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Those person who choose to avail themselves of the option of having an approved third party tester administer the knowledge and skills test will incur an additional charge of \$30.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be a positive impact on employment as approved third party testers will need to hire testers to administer the knowledge and skills test. There should be no affect on competition.

Jerry W. Jones
Undersecretary
0108#079

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Breath and Blood Analysis Methods and Techniques (LAC 55:I.Chapter 5)

In accordance with the provisions of R.S.32:663, et seq. relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby proposes to amend the following rules.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

Subchapter A. Analysis of Breath

§503. Operator Qualification

A. Qualifications for the certification of individuals to conduct breath analysis are as follows:

1. employee of a Louisiana or federal law enforcement agency;
2. resident of the state of Louisiana at the time of application, and at least 18 years of age;
3. graduation from a state-accredited high school or satisfactory passing of the General Education Development (GED) test or an equivalent educational background;
4. a score of 75 percent or better on a 16-hour operator's training course conducted by the Applied Technology Unit or any other course approved by the Applied Technology Unit. Course material to be covered will be taken from the *Chemical Test for Intoxication Training Manual* and/or the *Training Manual for the Intoxilyzer 5000*. However, if an individual has already successfully completed a training course in chemical testing the individual may attend a specified course in the operation of the Intoxilyzer 5000. To successfully complete the 16-hour training course and be certified to conduct breath analysis, the individual must:

- a. obtain a 75 percent score on the written examination covering course material;
- b. obtain a 75 percent score on the actual operation of the instrument and practical examination (running of an unknown alcohol solution). Both the written and the practical examination will be made up by the instructors of the Applied Technology Unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:672 (July 1991), repromulgated LR 17:796 (August 1991), amended LR 27:

§505. Instructor Qualification

A. Qualification for certification of individuals as instructors shall be as follows:

1. certified as an operator on the approved instrument by the Applied Technology Unit;
2. attendance of an additional 16-hour course approved by the Applied Technology Unit;
3. involved in a chemical testing program approved by the Applied Technology Unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:673 (July 1991), repromulgated LR 17:796 (August 1991), amended LR 27:

§507. Qualification of Individuals for Instrument Maintenance and Inspection

A. Qualification of individuals to perform maintenance and inspection on the approved instrument shall be as follows:

1. employee of the Office of State Police, Applied Technology Unit in the capacity of applied technology director, breath analysis supervisor, breath analysis instructor specialist, applied technology specialist, or breath analysis specialist. In order to be employed in the capacity of applied technology director, breath analysis supervisor, breath analysis instructor specialist, applied technology specialist, or breath analysis specialist, the employee must have met all of the requirements as stated by the Department of Civil Service pertaining to the classification of applied technology director, breath analysis supervisor, breath analysis instructor specialist or applied technology specialist;
2. graduation from a state-accredited high school or the satisfactory passing of the General Education Development (GED) test or an equivalent educational background;
3. successful completion of a 16-hour operator's training course;
4. successful completion of a course on maintenance conducted by the manufacturer of the approved instrument used in blood/breath alcohol testing whereby the individual has received a satisfactory certificate stating such;

5. complete six months on-the-job training whereby the individual shall undergo instructions on the following, but not limited to:

- a. calibration of the instrument;
- b. checking calibration of the instrument;
- c. trouble-shooting of the instrument;
- d. performance of preventive and regular maintenance;
- e. preparation and use of any wet bath simulator and solutions used in the calibration and calibration check;
- f. inspection of the instrument received from the manufacturer to insure proper assembly calibration and the overall proper functioning of the instrument.

B. After the individual has completed on-the-job training and qualified on the above specification, then and only then may he be certified to perform maintenance and inspection on the approved blood/breath alcohol testing instrument. The individual will then be certified by the Louisiana Department of Public Safety and Corrections and issued a permit stating such. This permit shall then be prima facie evidence of the individual's qualification to perform such maintenance.

C. The maintenance and/or repair work shall be performed by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist of the Applied Technology Unit, who are certified by the Louisiana Department of Public Safety and Corrections to perform such. The instrument recertification form that is filed with the clerks of the respective courts every four months shall also have the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist permit number affixed to this certificate. This permit number shall be proof as to the certification of the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist by the Louisiana Department of Public Safety and Corrections.

D. The procedure used by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist in the inspections of the instrument at least every four months for the checking of the calibration shall be as follows.

1. A Model Mark II-A wet bath breath alcohol simulator manufactured by Smith and Wesson, Model 34C, and Model 10-4 manufactured by Guth Manufacturing Company, will be used or any other wet bath simulator approved by the United States Department of Transportation.
2. Use of this simulator and preparation of the contents shall be performed according to the instructions as per the manufacturer of the simulator's operating manual.
3. Solutions used in the simulators may also be produced by using a certified stock solution.
4. Once the simulator is made the known alcohol value may be determined by the use of a gas chromatograph or any other approved instrument and this will be the "known alcohol value." Calibration check of the instrument

shall be within plus or minus 0.010 grams percent of the established "known alcohol value."

5. After the inspections are made by the applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist, and all items are performed according to the maintenance section as listed under the instrument, the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist will then certify that the instrument was in proper working order.

6. Records, or a copy covering maintenance, etc., on the instrument will be kept by the Applied Technology Unit.

E. Personnel of the Applied Technology Unit shall have the authority to instruct individuals as breath/alcohol testing field supervisors. These individuals will be able to perform minor service, repair and transport the instrument to various locations, run known alcohol solutions, testify in court, monitor the chemical testing program on a local level and confer with the Applied Technology Unit on any related matters pertaining to chemical testing. These individuals will have attended an additional training course whereby they have undergone instructions to perform their outlined duties. These individuals' permits shall state their authority to conduct such duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:796 (August 1991), amended LR 27:

§509. Permits

A. Upon determining the qualification of individuals to perform such analysis and duties, and after submitting an application for certification, the Louisiana Department of Public Safety and Corrections shall issue permits which shall be effective for the following periods with respect to classification.

1. Operator's Certification

a. Operators shall be certified for a period of two years following successful completion of the 16-hour operator's training course. These permits may be renewed after a refresher course given by the Applied Technology Unit or any other agency approved by the Applied Technology Unit.

b. In addition to being certified on any instrument currently approved by the Applied Technology Unit, an operator may also attend a specified course for certification on any new instrument that may be approved by the Applied Technology Unit. These permits shall also be in effect for a period of two years.

2. Breath Alcohol Testing Field Supervisors. Breath alcohol testing field supervisors shall be certified for a period of two years.

3. Instructors. Instructors shall be certified for a period of five years. However, once he is no longer involved in a chemical testing program, his certification shall terminate and then only be recertified after he has once again become involved in a chemical testing program and demonstrated his knowledge of instructions to the applied technology director.

4. Maintenance. Once an applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist is initially certified, his permit shall remain effective for the duration of his employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:797 (August 1991), amended LR 27:

Interested persons may submit written comments on these proposed amendments to Sergeant Terry Chustz at 7901 Independence Boulevard, Baton Rouge, LA 70808. Comments will be accepted through close of business September 20, 2001.

Jerry Jones
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Breath and Blood Analysis Methods and Techniques**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The requested rule change has no projected impact on expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant impact from the change is anticipated since Louisiana will not implement the changes in any different manner except in situations where officers are already trained in portions of the course. The purpose of revising the rules is to allow officers who are previously trained in some portions of the curriculum to be exempt, and from repeating courses already completed. The rule change should also place officers back in service at the earliest possible time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No net effect on competition or employment is anticipated since all entities will be equally affected.

Jerry Jones
Undersecretary
0108#075

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Adulterated Beverages—Truth in Labeling (LAC 55:VII.303)

Under the authority of R.S. 26:150(A) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55:VII.303 to reflect the statutory revisions of Title 26 statute numbers, and to provide for the truth in labeling and consumer information by requiring disclosure of trademarked alcohol brand names contained in certain frozen drinks and to require proper signage to be affixed to alcohol dispensing machines.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§ 303. Regulation II—Adulterated Beverages

A. As set forth in R.S. 26:150(B)(3), no dealer shall adulterate, water, or in any manner change the original contents of any container of regulated beverages nor possess any so adulterated, watered or changed. The provisions of this rule shall not apply to duly licensed manufacturers engaged in the blending or rectifying of regulated beverages under existing regulations or laws.

B. As set forth in R.S. 26:150(B)(4), no dealer shall do any act or thing which, by the laws of this state, is defined or prohibited as an unfair practice. Unfair sales as defined and prohibited in R.S. 51:421 et seq., are hereby deemed to be unfair practices.

C.1. To provide for the Truth in Labeling and Consumer Information Law, the following are required:

a. Any alcoholic beverage, concoction, or premixed alcohol mixed drink sold in a frozen drink machine, slush machine, or other type of dispensing system or device where the identity of the trademarked alcohol brands are lost in preparation, shall have affixed to such machine, dispensing system or device a sign clearly visible to the consumer showing the trademarked alcohol brands contained in such mixture.

b. In casinos, riverboats, and establishments holding Class AG(6) Exception permits, that cannot be accommodated with a back bar, due to their confined space and their method of service for alcoholic beverages, the owner shall prominently display all trademarked alcohol brands and types of alcohol available for consumption on the premises. The display of trademarked alcohol brands and types of alcohol must be obvious and clearly visible to consumers.

2. Any distributor of such alcoholic beverages may provide the signs or displays that are required to be posted by the retail dealer, pursuant to the cost limitations set forth in LAC 55:VII.317.

D. Any violation of these regulations is .03 deemed unfair practices and shall subject the permittee to revocation, suspension, withholding of his alcoholic beverage permits and /or fines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:150(A).

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, LR (1974), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 27:

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 the behavior and personal responsibility of children.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Melissa Gregg, Attorney, Office of Alcohol and Tobacco Control, Department of Revenue, 1885 Wooddale Boulevard, Suite 600, Baton Rouge, Louisiana 70806, or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m., Monday, September 24, 2001. A public hearing will be held on Tuesday, September 25, 2001 at 10:00 a.m. at 1755 Wooddale Boulevard, Baton Rouge, Louisiana.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Adulterated Beverages— Truth in Labeling

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Adoption of this amendment to Section 303 has no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this amendment will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Adoption of this amendment will require the licensed establishments holding Class A – General or Class A –

Restaurant Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 to disclose the identity of the alcohol brand names that are used in any concoctions or premixed alcohol or frozen drinks, where the identity of the brands are lost in preparation. This must be done by posting proper signage either on the dispensing machine/device or in the bar area clearly visible to consumers. The cost will be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this amendment should have no impact on competition or employment.

Murphy J. Painter
Commissioner
0108#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Child Care Assistance Program—Eligibility, Providers,
and Payments
(LAC 67:III.5102, 5103, 5107, and 5109)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, the Child Care Assistance Program.

The Agency proposes to amend §5102 to expand certain definitions; to amend §5103 to include the receipt of Supplemental Security Income as an eligibility criteria; to increase the age of minor unmarried parents who are Training and Employment Mandatory Participants; to amend §5107 to expand who cannot be considered an eligible child care provider; to provide further clarification of when an eligible provider may be terminated or permanently terminated; to expand the explanation of the Repair and Improvement Grant and establish a \$100 maximum for eligible Family Child Day Care Home providers. The sliding fee scale will be adjusted to reflect changes in the State Median Income.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5102. Definitions

Case Head—An individual who may apply for child care assistance for a child who customarily resides with him/her for more than half the time, including the child's parent, or an adult household member with primary responsibility for the child's financial support and care if the child's parent is not living in the home or living in the home but is disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or

Veterans Administration Disability for a disability of 70 percent or more and is unable to care for himself/herself and his/her child(ren) as verified by a doctor's statement, or is under age 18 and not emancipated by law.

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

Training or Employment Mandatory Participant (TEMP)—A household member who is required to be employed or attending a job training or educational program, including the case head, the case head's spouse, and the minor unmarried parent age 16 or older whose children need child care assistance.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:

§5103. Conditions of Eligibility

A. - B.1. ...

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

3. ...

4. The case head, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent age 16 or older who is not legally emancipated, and whose children are in need of Child Care Assistance, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veteran's Administration Disability benefits for a disability of at least 70% must be:

B.4.a. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:

§5107. Child Care Providers

A. - B.1.e. ...

f. use only safe children's products and remove from the premises any products which are declared unsafe and recalled as required by L.R.S.46:2701-2711. (CCAP Family Child Day Care Home providers will receive periodic listings of unsafe and recalled children's products.)

2. All registration functions for Family Child Day Care Homes selected as providers by eligible, Child Care Assistance Program families shall be carried out by the Office of Family Support.

C. ...

D. Under no circumstances can the following be considered an eligible child care provider:

1. - 5. ...

6. persons who have been permanently terminated as CCAP eligible providers.

E. ...

1. A Family Child Day Care Home or an In-Home provider shall be immediately and permanently terminated as a CCAP eligible provider if:

a. the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care;

b. the provider violates the terms of the provider agreement; or

c. the criminal background check shows that the provider has been convicted of, or pled no contest to, a crime listed in R.S.15:587.1(C).

2. A Family Child Day Care Home provider shall be immediately and permanently terminated as a CCAP eligible provider if the provider is verified to have more than six children in his/her care.

3. Other situations listed in policy or on the provider agreement may lead to the provider's termination as a CCAP eligible provider. These situations include but are not limited to:

a. A Family Child Day Care Home provider's failure to pass the second inspection by the Fire Marshal.

b. A criminal background check response showing that an adult living at a Family Child Day Care Home provider's residence, or working in the provider's home or on his home property, has been convicted of, or pled no contest to, a crime listed in R.S.15:587.1(C).

c. A provider's failure to timely return all requested forms, fees, etc. at renewal.

d. A Class A Center whose license is not renewed.

e. A school child care provider if the school no longer meets the BESE regulations.

F. ...

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

1. The program will pay for one-half of the cost of such a repair or improvement, up to the following maximums, which are based on the capacity of the child care provider:

Number of Children	Maximum Grant
1 to 6 (FCDCH)	\$100
7 to 20	\$500
21-40	\$1000
41-60	\$1500
61-80	\$2000
81-100	\$2500
101-120	\$3000
Over 120	\$3500

2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household shall pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients - 60% of Projected Median Income

DSS %	Number in Household	2	3	4	5	6
85%	Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974
70%		969 - 1147	1220 - 1434	1472 - 1722	1724 - 2010	1975 - 2297
55%		1148 - 1325	1435 - 1648	1723 - 1972	2011 - 2296	2298 - 2619
40%		1326 - 1503	1649 - 1863	1973 - 2222	2297 - 2582	2620 - 2941
25%		1504 - 1681	1864 - 2077	2223 - 2472	2583 - 2868	2942 - 3263
0%		ABOVE 1681	ABOVE 2077	ABOVE 2472	ABOVE 2868	ABOVE 3263

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	85%
	2227 - 2504	2479 - 2712	2730 - 2919	2982 - 3126	3234 - 3334	70%
	2505 - 2782	2713 - 2945	2920 - 3108	3127 - 3271	3335 - 3434	55%
	2783 - 3060	2946 - 3179	3109 - 3297	3272 - 3416	3435 - 3534	40%
	3061 - 3338	3180 - 3412	3298 - 3486	3417 - 3560	3535 - 3634	25%
	ABOVE 3338	ABOVE 3412	ABOVE 3486	ABOVE 3560	ABOVE 3634	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	85%
	3485 - 3540	3737 - 3748				70%
	3541 - 3596	3749 - 3760				55%
	3597 - 3652	3761 - 3772				40%
	3653 - 3708	3773 - 3783				25%
	ABOVE 3708	ABOVE 3783				0%

B. - D. ...

E. A payment will not be made for a child who is absent from day care more than five days in a calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month. A day of closure by the provider is counted as an absent day for the child.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:

Family Impact Statement

1. What effect will this rule have on the stability of the family? This rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have no effect on authority or rights of such persons.

3. What effect will this have on the functioning of the family? This rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? Changes to the sliding fee scale may allow more families to be eligible for child care assistance.

5. What effect will this have on the behavior and personal responsibility of children? This rule is setting forth new guidelines and will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the Child Care Assistance Program is a State function as directed by federal funding.

Interested persons may submit written comments by September 27, 2001 to the following: Vera W. Blakes, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on September 27, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Child Care Assistance Program—
Eligibility, Providers, and Payments**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Child Care Assistance Program costs are restricted by the amount of the federal Child Care and Development Block Grant; although the proposed rule may shift or revise costs, no increase in spending is anticipated. The immediate implementation cost to state government is the cost of publishing the rule and any related policy revisions. This cost is minimal and funds for such actions are included in the program budget. There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule results in no new costs or benefits to any persons or non-governmental groups except for the establishment of a \$100 maximum Repair and Improvement Grant to Family Child Day Care Home providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed actions will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
0108#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Claims and Recovery of Over-Issued Food
Stamp Benefits—Collection Methods
(LAC 67:III.2009)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

Federal regulations give states the option of "compromising" a Food Stamp claim for overissued benefits; that is, a state may forgive a claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be paid in three years. Although the agency has chosen not to compromise claims in the past, this option is not stated in the administrative code for the Food Stamp Program. Therefore, pursuant to 7 CFR Part 273, Department of Agriculture, Food and Nutrition Service, the agency now proposes to state this option.

**Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps
Chapter 19. Certification of Eligible Households
Subchapter P. Claims and Recovery of Over-Issued
Food Stamp Benefits**

§2009. Collection Methods

A.1. - 5. ...

B. The agency will not compromise claims, that is, forgive all or a portion of a debt. Claims may be terminated or written-off in accordance with federal policy.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272, 273, 276 and 277, P.L. 103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and FR 65:41752 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:768 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 27:1018 (July 2001), LR 27:

Interested persons may submit written comments on the proposed rule by September 26, 2001, to Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

Family Impact Statement

This rule will have no impact on the stability and functioning of the family or on parental rights. The rule will have no impact on the budget of the affected family since the agency has not previously compromised claims.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Claims and Recovery of Over-Issued
Food Stamp Benefits—Collection Methods**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule incorporates existing policy into §2009. The only implementation cost to state government is the minimal cost of publishing the rule. Funds for such actions are included in each program's annual budget. There are no costs or savings to local governmental units

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no impact on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of this proposed rule as the agency has never previously compromised claims.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of this proposed rule as the agency has never previously compromised claims.

Vera W. Blakes
Assistant Secretary
0108#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Food Stamp Program—Income Deductions and Resource
Limits; Categorical Eligibility for Certain Recipients
(LAC 67:III.1949, 1983 and 1987)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

A final rule published in the June 20, 2001 issue of the *Louisiana Register* amended Subsections A of §§1949, 1983, and 1987. By failing to show that there were no

revisions to what followed each Subsection, the regulations contained in the subsequent Paragraphs and Subsections were effectively removed from LAC 67:III beginning July 1. This notice proposes to restore the regulations to the *Louisiana Administrative Code*. Some revisions were made to update program names and to omit outdated text. An Emergency Rule was necessary to repromulgate the regulations effective July 1, 2001.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1949. Exclusions from Resources

A.1. - 4. ...

B. All of the resources of recipients of FITAP, SSI, and aid to the aged, blind, or disabled under Titles I, II, X, XIV, or XVI of the Social Security Act are excluded.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987), amended by Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

A.1. - 2. ...

3. The maximum dependent care deduction is \$200 per month for each child under 2 years of age and \$175 for each other dependent.

a. A child care expense that is paid for or reimbursed by the FIND Work Program or the Child Care Assistance Program is not deductible except for that portion of the cost which exceeds the payment or reimbursement.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:423 (July 1986), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of Family Security, LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:905 (July 1993), LR 21:188 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:

Subchapter J. Determining Household Eligibility and Benefit Levels

§1987. Categorical Eligibility for Certain Recipients

A.1. - 10. ...

B. Application Processing

1. Households in which all members are applying for public assistance shall continue to be processed according to joint processing procedures. Until a determination is made

on the public assistance application, the household's food stamp eligibility and benefit level shall be based on food stamp eligibility criteria. However, the local office shall postpone denying a potentially categorically eligible household until the thirtieth day in case the household is determined eligible to receive public assistance benefits.

2. The household shall be informed on the notice of denial that it is required to notify the local office if its FITAP or SSI benefits are approved.

3. If the household is later determined eligible to receive public assistance benefits after the thirtieth day and is otherwise categorically eligible, benefits shall be provided using the original application along with other pertinent information occurring subsequent to the application.

4. The local office shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Any changes shall be initialed and the updated application re-signed by the authorized representative or authorized household member.

5. If eligibility for public assistance is determined within the 30-day food stamp processing time, benefits shall be provided back to the date of application. If eligibility for public assistance is determined after the food stamp application is denied, benefits for the initial month shall be prorated from the effective date of the public assistance certification or the date of the food stamp application, whichever is later.

C. Certified households which become categorically eligible due to receipt of SSI benefits shall be eligible for the medical and uncapped shelter deductions from the beginning of the period for which the SSI benefits are authorized or the date of the food stamp application, whichever is later. These additional benefits shall be provided through restoration.

D. For food stamp purposes, Refugee Cash Assistance (RCA) benefits are not considered public assistance and, therefore, an RCA household is not categorically eligible.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:

Interested persons may submit written comments on the proposed rule by September 26, 2001, to Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

Family Impact Statement

This rule will have no impact on the stability and functioning of the family or on parental rights and will have no impact on the budget of the affected family.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Food Stamp Program—Income
Deductions and Resource Limits; Categorical Eligibility
for Certain Recipients**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule restores regulations which were inadvertently deleted from LAC 67:III. The only implementation cost to state government is the minimal cost of publishing the rule. Funds for such actions are included in each program's annual budget. There are no costs or savings to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule will have no impact on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of this proposed rule as the agency has never previously compromised claims.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
0108#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

2001 Wild Turkey Season (LAC 76:XIX.113)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2002 season.

**Title 76
WILDLIFE AND FISHERIES**

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a turkey stamp in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

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 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:

§115. Statewide Turkey Hunting Areas—Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/season

B. Turkey Hunting Schedule

Area	Season Dates
A	March 30 - April 28
B	March 30 - April 21
C	March 30 - April 7

C. 2002 Turkey Hunting Season—Open Only in the Following Areas

1. Area A—March 24-April 28
 - a. All of the following parishes are open:
 - i. East Baton Rouge;
 - ii. East Feliciana;
 - iii. LaSalle;
 - iv. Livingston;
 - v. Natchitoches (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - vi. Pointe Coupee (Exception: see Sherburne WMA for special dates on all state, federal and private lands within Sherburne boundaries);
 - vii. St. Helena;
 - viii. St. Tammany;
 - ix. Tangipahoa;
 - x. Washington;
 - xi. West Baton Rouge;
 - xii. West Feliciana (including Racourci Island).
 - b. Portions of the following parishes are also open:
 - i. Allen: North of LA 26 from DeRidder to the junction of LA 104 and north of LA 104;
 - ii. Avoyelles: That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;
 - iii. Beauregard: North of LA 26 east of DeRidder, north and east of US 171-190 from the junction of LA 26 to DeRidder, and north of US 190 from DeRidder to Texas state line;
 - iv. Caldwell: West of Ouachita River southward to Catahoula Parish line, east of LA 165 from LaSalle Parish line to the junction of LA 126, north of LA 126 westward to the Winn Parish line;
 - v. Catahoula: West of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north of LA 8 to LA 126, north and east of LA 126. ALSO that portion lying east of LA 15;
 - vi. Concordia: That portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;
 - vii. Evangeline: North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;

- viii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;
 - ix. Grant: All of the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates;
 - x. Iberville: West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
 - xi. Madison: That portion lying west of US 65 and south of US 80;
 - xii. Rapides: All of the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates;
 - xiii. Richland: That portion south of US 80 and east of LA 17;
 - xiv. Sabine: That portion north of LA 6 from Toledo Bend Lake to Many; east of US 171 from Many to the Vernon Parish line;
 - xv. St. Landry: That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. EXCEPTION: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;
 - xvi. Upper St. Martin: All within the Atchafalaya Basin. EXCEPTIONS: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;
 - xvii. Tensas: That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;
 - xviii. Vernon: That portion east of US 171 from the Sabine Parish line to the junction of LA 111, south of LA 111 westward to LA 392, and south of LA 392 westward to the Sabine Parish line. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates.
2. Area B—March 30-April 21
 - a. All of the following parishes are open:
 - i. Bienville;
 - ii. Bossier;
 - iii. Caddo;
 - iv. Claiborne;
 - v. DeSoto;
 - vi. Lincoln;
 - vii. Red River;
 - viii. Union;

- ix. Webster (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- x. Winn, (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - b. Portions of the following parishes are open:
 - i. Allen:
South and west of LA 26 from DeRidder to US 190 east of Elton, north of US 190 from the junction of LA 26 to Kinder and west of US 165 south of Kinder;
 - ii. Beauregard: South of LA 26 east of DeRidder, east of US 171 from the junction of LA 26 and south of LA 12 west of Ragley;
 - iii. Calcasieu: South of LA 12 east of DeQuincy, east of LA 27 from DeQuincy to I-10 and North of I-10 east of Sulphur;
 - iv. East Carroll: East of US 65 from Arkansas state line to Madison Parish line;
 - v. Jackson: West of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to LA 144, west of LA 144 to LA 34, west of LA 34 to Chatham, north and west of LA 4 from Chatham to Weston, north and west of LA 505 from Weston to Wyatt, west of US 167 from Wyatt to Winn Parish line;
 - vi. Jefferson Davis: North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;
 - vii. Ouachita: East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;
 - viii. Morehouse: West of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA 139, west of LA 139 to Ouachita Parish line;
- 3. Area C - March 30 - April 7
 - a. Portions of the following parishes are open:
 - i. Ascension: All east of the Mississippi River;
 - ii. Catahoula: That portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;
 - iii. Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to US 65 (Clayton), east of US 65 northward to Tensas Parish line;
 - iv. Franklin: That portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line;
 - v. Iberville: All east of the Mississippi River;
 - vi. Madison: South of US 80 and east of US 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

- vii. Richland: West of LA 17 from Franklin Parish line to Ringle Rd., south of Ringle Rd. to Ferguson Rd., south of Ferguson Rd. to Little Rd., south of Little Rd. to Big Creek, east of Big Creek to Franklin Parish line;
- viii. Tensas: East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

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 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:

§117. 2002 Wildlife Management Area Turkey— Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs EXCEPT in designated camping areas. ATVs are prohibited from two hours after sunset to 3:00 AM. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

B. Permits

1. Self-Clearing Permits: All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts: Bayou Macon, Dewey Wills, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk, Loggy Bayou, Sherburne, and West Bay WMAs. Deadline for receiving applications for all lottery hunts is

February 15, 2002. An application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for

applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 6-7	Self-Clearing	April 6-7
Bens Creek 1	March 30-April 21	Self-Clearing	None
Big Lake	March 30-April 7	Self-Clearing	None
Bodcau	March 30-April 14	Self-Clearing	None
Boeuf	March 30-April 7	Self-Clearing	None
Boise Vernon	March 30-April 21	Self-Clearing	None
Camp Beauregard	March 30-April 14	Self-Clearing	None
Dewey Wills	March 30-31 April 6-7	Self-Clearing	March 30-31 April 6-7
Fort Polk	March 30-April 28	Self-Clearing	None
Georgia-Pacific	April 6-14	Self-Clearing	None
Grassy Lake	March 30-April 14	Self-Clearing	None
Hutchinson Creek	March 30-April 28	Self-Clearing	None
Jackson-Bienville	March 30-April 14	Self-Clearing	None
Little River	March 30-April 14	Self-clearing	None
Loggy Bayou	April 13-14	Self-Clearing	April 13-14
Pearl River	March 30-April 21	Self-Clearing	None
Peason Ridge	March 30-April 28	Self-Clearing	None
Pomme de Terre	March 30-April 14	Self-Clearing	None
Red River	March 30-April 7	Self-Clearing	None
Sabine	March 30-31 April 6-7	Self-Clearing	March 30-31 April 6-7
Sandy Hollow 1	March 30-April 21	Self-Clearing	None
Sherburne 2	March 30-April 7	Self-Clearing	March 30-31 April 1-3
Sicity Island	March 30-April 1 April 2-4 April 5-7	Self-Clearing	March 30-April 1 April 2-4 April 5-7
Three Rivers	March 30-April 7	Self-Clearing	None
Tunica Hills South Tract	March 30-31 April 13-14 April 20-21 April 27-28	Self-Clearing	March 30-31 April 13-14 April 20-21 April 27-28
Tunica Hills Angola Tract 3	March 30-31 April 6-7 April 13-14 April 20-21	Self-Clearing	March 30-31 April 6-7 April 13-14 April 20-21
Union	April 6-7	Self-Clearing	April 6-7
Walnut Hill	March 30-April 28	Self-Clearing	None
West Bay	March 30-31 April 6-7	Self-Clearing	March 30-31 April 6-7

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 15, 2002.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Scouting access limited. Contact Region 7 office for details (225) 765-2360.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 23
Big Lake	March 23
Fort Polk	March 23
Loggy Bayou	April 6
Sherburne	March 23
West Bay	March 23

E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) turkey hunting schedule: Caney Ranger District, March 30-April 14; all remaining KNF lands, March 30-April 21 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. Indian Bayou Area (U.S. Army Corps of Engineers), turkey hunting schedule: March 30-April 7, lottery hunt only on March 30-31 and April 1-3. Contact USCOE at 337-585-0856 for further information.

3. National Wildlife Refuges: Bogue Chitto NWR, March 30-April 28; Lake Ophelia NWR, March 30-April 1 (lottery only), April 6-8 (lottery only), April 13-14; Tensas NWR, March 30-April 28. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

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 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:

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 written comments relative to the proposed rule to Mr. Tommy Prickett, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, until October 22, 2001.

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).

Dr. H. Jerry Stone
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: 2001 Wild Turkey Season**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules to the state, aside from staff time, is the production of the turkey regulation pamphlets and the issuance of turkey stamps. Implementation cost is estimated at \$15,111. The state agency currently has sufficient funds to implement the proposed action and no implementation costs or savings will be incurred by local governmental units resulting from the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

License revenue from the sale of turkey stamps is estimated to be \$59,156. Failure to adopt this rule would result in no turkey hunting season and loss of state revenues from the sale of turkey stamps. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 10,000 resident and nonresident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Both resident and nonresident turkey hunters will incur an additional cost of \$5.50 and \$20.50, respectively, from the required purchase of a wild turkey stamp.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 15,271 full- and part-time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

James L. Patton
Undersecretary
0108#061

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Harvest Regulations—Billfishes (LAC 76:VII.355)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.355,

increasing the minimum size limit for sailfish from 57 inches to 63 inches lower jaw fork length and provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3 and R.S. 56:320.2(C). Said Rule is attached to and made a part of this Notice of Intent.

**Title 76
WILDLIFE AND FISHERIES**

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§355. Harvest Regulations, Billfishes

A. ...

B. Minimum Size Limits: No person shall possess any fish smaller than the minimum size limit.

Species	Minimum Size Limit
1. Blue Marlin	99 inches Lower Jaw Fork Length (LJFL)
2. White Marlin	66 inches Lower Jaw Fork Length (LJFL)
3. Sailfish	63 inches Lower Jaw Fork Length (LJFL)
4. Swordfish	29 inches carcass length or 33 pounds dressed weight

C. - I. ...

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15, for billfishes (*Istiophoridae spp.*) while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange billfishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3 and R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:542 (March 1999), amended LR 26:1676 (August 2000), LR 27:

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 Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, October 4, 2001.

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).

Dr. H. Jerry Stone
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Harvest Regulations—Billfishes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in revenue for local and state governmental units as a result of the proposed action. This is due to fine revenue that will be collected at the district court level rather than the federal level and civil restitution collected at the state level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule incorporates federal laws and regulations of billfishes as part of the state regulations and allows the state to initiate violations in state courts for violations of federal laws and regulations as authorized by the Magnuson-Stevens Fishery Conservation Act and state and federal agreements and state venue statutes, on vessels and persons while fishing in the Exclusive Economic Zone, if the violator is also subject to jurisdiction of the state. It also provides for a consistent minimum size regulation limit for recreationally harvested sailfish in state and adjacent federal waters. Recreational anglers who harvest sailfish in state waters will be directly impacted, since they will only be allowed to keep sailfish equal to or greater than 63 inches lower jaw fork length instead of 57 inches. Since the majority of the sailfish are harvested in federal waters and the federal minimum size limit of 63 inches is already in place, it is anticipated that the impact from this rule will be negligible.

Long-term benefits of an undetermined magnitude may accrue to harvesters in the recreational and commercial sectors as a result of the increase in the stocks protected by the proposed rule modification. No additional costs, permits, fees, workload or paperwork will occur from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
0108#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Harvest Regulations—Red Drum (LAC 76:VII.363)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.363, which provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations. Authority for adoption of this Rule is included in R.S. 56:320.2(C). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §363. Red Drum—Harvest Regulations

A. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15, for red drum (*Sciaenops ocellata*) while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange red drum within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:

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 Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, October 4, 2001.

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).

Dr. H. Jerry Stone
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Harvest Regulations—Red Drum

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no state or local governmental implementation costs. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in revenue for local and state governmental units as a result of the proposed action. This is due to fine revenue that will be collected at the district court level rather than the federal level and civil restitution collected at the state level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule incorporates federal laws and regulations of red drum as part of the state regulations and allows the state to initiate violations in state courts for violations of federal laws and regulations as authorized by the Magnuson-Stevens Fishery Conservation Act and state and federal agreements and state venue statutes, on vessels and persons while fishing in the Exclusive Economic Zone, if the violator is also subject to jurisdiction of the state. No additional costs, permits, fees, workload or paperwork will occur from the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
0108#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Harvest Regulations—Tuna (LAC 76:VII.361)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.361, modifying the rule for the harvest of Atlantic tunas by adding a minimum size limit for the harvest of bluefin tuna, removing Atlantic bonito from the list of permitted tunas in Louisiana waters and provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3 and R.S. 56:320.2(C). Said Rule is attached to and made a part of this Notice of Intent.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§361. Tuna—Harvest Regulations

A. Bag and Possession Limits, Recreational

Species	Bag and Possession Limit
1. Yellowfin Tuna	3 fish per person

B. Size Limits, Recreational and Commercial

Species	Minimum Size Limit
1. Yellowfin Tuna	27 inches Curved Fork Length (CFL)
2. Bigeye Tuna	27 inches Curved Fork Length (CFL)
3. Bluefin Tuna*	27 inches Curved Fork Length (CFL)

*The size class of a bluefin tuna found with the head removed shall be determined using pectoral fin curved fork length (PFCFL) multiplied by a conversion factor of 1.35.

NOTE: Curved Fork Length (CFL): the length of a fish measured from the tip of the upper jaw to the fork of the tail along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel. Pectoral Fin Curved Fork Length (PFCFL) means the length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

C. No person shall take or have in their possession any species of tuna, less than the minimum size or in excess of the take or possession limits. The possession limit on tunas applies to tuna taken within or outside Louisiana territorial waters.

D. Permits

1. Recreational. Persons aboard a vessel whether within or outside Louisiana territorial waters possessing any of the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna and albacore are required to have a valid federal recreational tuna permit in their immediate possession on board the vessel.

2. Commercial. Persons harvesting the following tuna species: Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna and albacore whether within or outside Louisiana state territorial waters for commercial purposes or possessing such tuna species in excess of a recreational take limit are required to have a valid federal commercial tuna permit in their immediate possession on board the vessel. No person shall sell, barter, trade or exchange or attempt to sell, barter, trade or exchange any species of tuna without a valid federal commercial tuna permit. No person shall purchase, barter, trade or exchange or attempt to purchase, barter, trade or exchange any species of tuna from any person who harvested tuna without a valid federal commercial tuna permit.

3. No person aboard any commercial vessel shall transfer or cause the transfer of fish between vessels on state or federal waters.

E. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15, for tunas

while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange tunas within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3 and R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2834 (December 2000), amended LR 27:

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: Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, October 4, 2001.

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).

Dr. H. Jerry Stone
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Harvest Regulations—Tuna**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to the state or local governmental units as a result of the proposed rule change. Enforcement of the proposed rule will be carried out using existing staff and funding levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in revenue for local and state governmental units as a result of the proposed action. This is due to fine revenue that will be collected at the district court level rather than the federal level and civil restitution collected at the state level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule incorporates federal laws and regulations of tuna as part of the state regulations and allows the state to initiate violations in state courts for violations of federal laws and regulations as authorized by the Magnuson-Stevens Fishery Conservation Act and state and federal agreements and state venue statutes, on vessels and persons while fishing in the exclusive Exclusive Economic Zone, if the violator is also

subject to jurisdiction of the state. It also provides for consistency in the state and federal regulations for the recreational and commercial harvest of tuna.

A portion of Louisiana saltwater recreational and commercial fishers of Atlantic bonito and bluefin tuna may be affected by the proposed rule. The impact, if any, is anticipated to be small, since the 27-inch curved fork length minimum size limit for bluefin tuna is already in place in federal waters where the majority of this fishery takes place. The removal of the federal permit requirement to harvest Atlantic bonito will save those fishers who only harvest this species \$25. No additional costs, permits, fees, workload or paperwork will occur from the proposed rule. Long-term benefits of an undetermined magnitude may accrue to fishers in both the recreational and commercial sectors as a result of the increase in stocks protected by the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James L. Patton
Undersecretary
0108#060

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Pompano Permits (LAC 76:VII.703)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.355, modifying the application procedures and removing the phrase "excluding islands." Authority for adoption of this Rule is included in R.S. 56:6(25)(a) and R.S. 56:406(A)(3). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program

§703. Pompano Permits

A. Harvest Regulations

1. - 8. ...

9. Pompano strike nets may be used during the period from August 1 through October 31 of each year in waters in excess of seven feet in depth and beyond 2,500 feet from land within the Chandeleur and Breton Sound area described in R.S. 56:406(A)(2).

10. - 14. ...

B. Qualification for Permit

1. All permits shall be applied for and/or granted from January 1 to April 30 of each year from the New Orleans or Baton Rouge offices. All permits expire December 31 following the date of issuance.

2. - 3. ...

4. Proof of ownership of the proposed permitted vessel(s) and proof that all applicable licenses have been applied for shall be provided at the time of appointment. Proof of bona fide residency, as defined in R.S. 56:8(12), is also required at this time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a) and R.S. 56:406(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:846 (December 1986), amended by the Office of Fisheries, LR 16:322 (April 1990), LR 22:859 (September 1996), amended by the Wildlife and Fisheries Commission, LR 26:2332 (October 2000), LR 27:

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 Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, October 4, 2001.

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).

Dr. H. Jerry Stone
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pompano Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A slight savings in operating costs (paper, copying, man-hours, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation will impact commercial harvesters of Florida pompano in state waters. The change will reduce the amount of paperwork and the amount of time required in applying for a pompano permit and allow commercial harvesters to concentrate on other activities. In 2000, there were 13 permitted commercial harvesters of Florida pompano in Louisiana.

The proposed regulation amendment also incorporates the new fishing area description as specified in Act 153 of the 2001 Regular Legislative Session.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
0108#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Sharks and Sawfishes Harvest Regulations (LAC 76:VII.357)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule, LAC 76:VII.357, modifying the existing rule to create compatible regulations in both state and federal waters and provides that all vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal laws and regulations. Authority for adoption of this Rule is included in R.S. 56:6(10), 56:326(E)(2), 56:326.1, 56:326.3, and R.S. 56:320.2(C). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§357. Sharks and Sawfishes - Harvest Regulations

A. The following rules and regulations are established for the taking and possession of sharks (including sawfishes) (Class *Elasmobranchiomorphi*: Orders *Hexanchiformes*, *Lamniformes*, *Squaliformes*, and *Rajiformes*) from Louisiana waters. The provisions of this Section shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, except for provisions:

1. outlawing finning of shark;
2. requiring a shark permit for sale, barter, trade, or exchange;
3. limiting sale, barter, trade, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories:

1. small coastal sharks—bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark;
2. large coastal sharks—great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, tiger shark;
3. pelagic sharks—porbeagle shark, shortfin mako, blue shark, oceanic whitetip shark, thresher shark;
4. prohibited species—basking shark, white shark, bigeye sand tiger, sand tiger, whale shark, smalltooth sawfish, largetooth sawfish, Atlantic angel shark, Caribbean sharpnose shark, smalltail shark, bignose shark, Caribbean reef shark, dusky shark, Galapagos shark, narrowtooth shark, night shark, bigeye sixgill shark, bigeye thresher shark, longfin mako, sevengill shark, sixgill shark.

C. In addition to all other licenses and permits required by law, a valid original shark permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks as required by law; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for, possessing, selling, bartering, trading, or exchanging shark.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a commercial permit was issued.

E.1. All persons who do not possess a shark permit issued by the Department of Wildlife and Fisheries, and, if applicable, a federal shark permit issued by the National Marine Fisheries Service, are limited to a recreational possession limit. All persons who do not possess a Louisiana shark permit and, if applicable, a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a recreational possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, may be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal bycatch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a shark permit in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.5 and R.S. 56:306.6.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose sharks.

2. No more than one shark from either the large coastal, small coastal or pelagic group not taken under a commercial permit may be retained per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, one Atlantic sharpnose shark may be retained per person per trip within or without Louisiana waters. Regardless of the length of a trip, no more than one Atlantic sharpnose shark per person may be possessed.

G. Those persons possessing a federal shark permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are

limited to daily take, trip and possession limits as specified in that federal permit. A person aboard a vessel for which a federal shark permit has been issued shall not retain, possess, barter, trade, or exchange shark of any species group for which the commercial quota has been reached and the season closed in federal waters.

H.1. A vessel that has been issued or possesses a federal shark permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange large coastal species in excess of 4,000 pounds, dressed weight. No person shall purchase, barter, trade, or exchange shark in excess of 4,000 pounds, dressed weight, or from any person who does not possess a Louisiana shark permit or federal permit, if applicable.

2. Persons possessing a Louisiana shark permit shall not possess on any trip, or land from any trip, or sell, large coastal species in excess of 4,000 pounds, dressed weight.

I. A person aboard a vessel for which a federal shark permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. The practice of "finning", that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed 5 percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5 and R.S. 56:306.6. Fins from shark harvested by a vessel that are disproportionate to the weight of the carcasses landed shall not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

3. Shark fins shall not be possessed aboard a fishing vessel after the vessel's first point of landing.

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof:

- a. basking shark—*Cetorhinus maximus*;
- b. white shark—*Carcharodon carcharias*;
- c. bigeye sand tiger—*Odontaspis noronhai*;
- d. sand tiger—*Odontaspis Taurus*;
- e. whale shark—*Rhincodon typus*;
- f. smalltooth sawfish—*Pristis pectinata*;
- g. largetooth sawfish—*Pristis pristis*;
- h. Atlantic angel shark—*Squatina dumerili*;
- i. Caribbean sharpnose shark—*Rhizoprionodon porosus*;
- j. smalltail shark—*Carcharhinus porosus*;
- k. bignose shark—*Carcharhinus altimus*;
- l. Caribbean reef shark—*Carcharhinus perezi*;
- m. dusky shark—*Carcharhinus obscurus*;
- n. Galapagos shark—*Carcharhinus galapagensis*;
- o. narrowtooth shark—*Carcharhinus brachyurus*;
- p. night shark—*Carcharhinus signatus*;

- q. bigeye sixgill shark—*Hexanchus vitulus*;
- r. bigeye thresher shark—*Alopias superciliosus*;
- s. longfin mako shark—*Isurus paucus*;
- t. sevengill shark—*Heptranchias perlo*;
- u. sixgill shark—*Hexanchus griseus*.

2. Notwithstanding other provisions of this part, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a catch and release program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of this part, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special scientific and educational collecting permit issued by the department under R.S. 56:318, including whatever conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

M. Seasonal Closures

1. All Louisiana state waters out to the seaward boundary of the Louisiana Territorial Sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a federal shark permit may legally harvest sharks from federal waters beyond the Louisiana Territorial Sea and bring those sharks into Louisiana waters for sale within the provisions of that federal shark permit. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the reopening of that fishery in the adjacent federal waters. The secretary is also hereby authorized to modify any such closure order to maintain consistency with reopening dates in the adjacent federal waters, should the federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

O. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended Title 50 and 15, for sharks and sawfishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange sharks and sawfishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, and R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:

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: Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, October 4, 2001.

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).

Dr. H. Jerry Stone
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sharks and Sawfishes Harvest
Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will

allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused to a single reporting system.
II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in revenue for local and state governmental units as a result of the proposed action. This is due to fine revenue that will be collected at the district court level rather than the federal level and civil restitution collected at the state level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule incorporates federal laws and regulations of sharks and sawfishes as part of the state regulations and allows the state to initiate violations in state courts for violations of federal laws and regulations as authorized by the Magnuson-Stevens Fishery Conservation Act and state and federal agreements and state venue statutes, on vessels and persons while fishing in the Exclusive Economic Zone, if the violator is also subject to jurisdiction of the state. It also provides for consistency in state and federal regulations for the recreational and commercial harvest of sharks. Long-term benefits of an undetermined magnitude may accrue to fishers in the recreational and commercial sectors as a result of increases in the size of stocks protected by the proposed regulations.

A portion of Louisiana's saltwater recreational anglers and commercial fishers who land sharks will be affected by the proposed rule. Abolishing the monthly reporting requirements will impact 123 commercial shark fishers by reducing the amount of required paperwork and allowing commercial fishers more time to concentrate on other activities. In addition, 14 species of sharks are being added to the prohibited harvest species list. This will reduce the number of available shark species for harvest and the amount of sharks landed by both recreational anglers and commercial fishers. The 14 shark species account for approximately 0.5 percent of the average annual total amount of sharks commercially harvested and 0.6 percent of the average total commercial shark dockside value (historical landings and dockside value information). The 54-inch minimum fork length requirement (except for Atlantic sharpnose), the reduced possession limit for the large coastal, small coastal, and pelagic groups from two to one fish per vessel per trip, and the reduced possession limit of Atlantic sharpnose sharks from one to two fish per person per trip are estimated to decrease annual recreational shark landings by 95 percent. The overall impact to recreational angler benefits, however, is expected to be small, since sharks are seldom reported as a targeted recreational species but as an incidental catch species.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on employment in the public or private sector.

James L. Patton
Undersecretary
0108#057

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 3-4, 2001, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, Louisiana. The deadline for sending the application and fee is as follows:

New Candidates: September 7, 2001
Re-Take Candidates: September 21, 2001
Reciprocity Candidates: November 16, 2001

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to September 7, 2001. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0108#030

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given October 22-26, 2001, 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is September 7, 2001. No applications will be accepted after September 7, 2001.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to September 7, 2001. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0108#031

POTPOURRI

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

Hearing Notice Community and Family Support System Cash Subsidy (LAC 48:I.1603-16121)

Editor's Note: The referenced Notice of Intent may be viewed on pages 909-912 of the June 20, 2001 edition of the *Louisiana Register*.

As described in R. S. 49:472, this proposed rule will have a positive effect on the stability, functioning, behavior and personal responsibility of recipient families and children, as well as the earnings and budget of such families and children with severe/profound levels of exceptionalities through the award of a cash subsidy to assist families with the extraordinary expenses of maintaining their child at home. It will have no effect on the authority and rights of parents regarding supervision and education of their children. In addition, the proposed rule has no effect on the ability of local governments to perform its function.

The Department of Health and Hospitals will conduct a public hearing at 9:30 a.m. on Monday, September 24, 2001 in the First Floor Auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, LA 70802. All interested persons are invited to attend and to present data, views, comments, or arguments, orally and in writing. In addition, all interested persons are invited to submit written comments on this proposed rule. Such comments must be received no later than Thursday September 20, 2001 by the close of business, 4:30 p.m. Comments should be submitted to Raymond A. Jetson, Assistant Secretary, Office for Citizens with Developmental Disabilities, Department of Health and Hospitals, P. O. Box 3117, Baton Rouge, LA 70802-3117 or faxed to (225) 342-8823.

David W. Hood
and
J. Renea Austin-Duffin
Secretary

0108#081

POTPOURRI

**Department of Insurance
Office of the Commissioner**

Directive Number 157C Pharmacy Fees

To: Insurers, Health Maintenance Organizations,
Third Party Administrators, And Self- Insurance
Funds

Senate Resolution Number 53 passed in the 2001 Regular Session directs the Louisiana Department of Insurance to investigate reimbursement of provider fees by insurance or third party payors to pharmacy providers as mandated in LSA-R.S. 46: 2625. In order to assure compliance with LSA-R.S. 46: 2625 and Senate Resolution Number 53, the Department of Insurance hereby issues this directive.

All insurers, health maintenance organizations, third party administrators and self-insurance funds providing coverage of prescription drugs are hereby directed to comply and provide written confirmation to the Department of Insurance, Office of Health, that they are in compliance with LSA-R.S. 46: 2625.

LSA-R.S. 46: 2625 provides for fees on health care services provided by the Medicaid Program, and states the following:

A. 1. The Department of Health and Hospitals is hereby authorized to adopt and impose fees for health care services provided by the Medicaid program on every nursing facility, every intermediate care facility for the mentally retarded, every pharmacy in the state of Louisiana and certain out-of-state pharmacies, dispensing physicians, and medical transportation providers. The amount of any fee shall not exceed the total cost to the state of providing the health care service subject to such fee. In addition, the amount of the fees imposed under the rules and regulations adopted shall not exceed the following:

- a. ten dollars per occupied bed per day for nursing facilities
- b. thirty dollars per occupied bed per day for intermediate care facilities for the mentally retarded.
- c. ten cents per outpatient prescription.
- d. ten cents per outpatient out-of-state prescription.
- e. ten cents per out-patient prescription dispensed by dispensing physicians
- f. seven dollars and fifty cents per medical service trip for medical transportation providers.

2. Any fee authorized by and imposed pursuant to this Section shall be considered an allowed cost for purposes of insurance or other third party reimbursements and shall be included in the establishment of reimbursement rates.

Any of the above entities failing to comply with this directive shall be reported to the legislature in a report issued by the Department of Insurance. Please be guided accordingly.

J. Robert Wooley
Acting Commissioner

0108#063

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Average Weekly Wage Rate

Pursuant to Act 583 of the Regular Session of the 1975 Louisiana Legislature, this state's average weekly wage upon which the maximum workers' compensation weekly benefit amount will be based, effective September 1, 2001, has been determined by the Department of Labor to be \$530.43.

Gary Forster
Secretary

0108#033

POTPOURRI

**Department of Labor
Office of Workers' Compensation**

Weekly Compensation Benefit Limits

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Department of Labor, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2001 through August 31, 2002.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$530.43	\$398.00	\$106.00	30 cents per mile*

*Effective July 1, 2001, the mileage reimbursement is 30 cents per mile pursuant to LA R.S. 23:1203 D.

Gary Forster
Secretary

0108#034

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Bagby Operating Co., Inc.	Big Creek	M	Knight	001	184045
Bagby Operating Co., Inc.	Big Creek	M	Knight	002	186610
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUEE; Christian	001	187067
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUC;W E Stewart	001	187072

Bagby Operating Co., Inc.	Big Creek	M	GR RA SUYY; Lois Cox	001	194263
Bagby Operating Co., Inc.	Big Creek	M	GR RA SU3; L H Medlin	001	194264
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUG; R V Smith	001	194651
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUUU; Irma Medlin	001	194815
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUH; Fred C Norman	003	195171
Bagby Operating Co., Inc.	Big Creek	M	GR RA SU7; Ratcliff	001	201363
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUWW; C B Smith	001	201389
Bagby Operating Co., Inc.	Big Creek	M	GR RA SU9; Ratcliff	002	201594
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUDD; Hartley	001	203798
Bagby Operating Co., Inc.	Big Creek	M	GR RA SU10; Ratcliff	003	203921
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUN; Fred C Norman et ux	002	203995
Bagby Operating Co., Inc.	Big Creek	M	GR RA SU1; Fred C Norman et ux	001	204006
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUO; Fred C Norman et ux	004	204199
Bagby Operating Co., Inc.	Big Creek	M	GR RA SU4; Lawrence Medlin et ux	003	205189
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUP; Fred C Norman	007	205313
Bagby Operating Co., Inc.	Big Creek	M	GR RA SUF; R V Smith	002	205314
Bagby Operating Co., Inc.	Monroe	M	Pickett C	001	141013
Bagby Operating Co., Inc.	Monroe	M	Ethel Pickett	001	142945
Bagby Operating Co., Inc.	Monroe	M	W B Williams	001	143271
Bagby Operating Co., Inc.	Monroe	M	W B Williams	002	143817
Bagby Operating Co., Inc.	Monroe	M	W B Williams	003	143818
Bagby Operating Co., Inc.	Monroe	M	Ollie White	001	144065
Bagby Operating Co., Inc.	Monroe	M	Ollie White	002	144253
Bagby Operating Co., Inc.	Monroe	M	W B Williams	004	173150
Bagby Operating Co., Inc.	Monroe	M	W B Williams	005	173151
Bagby Operating Co., Inc.	Monroe	M	Madison	004	187269
Bagby Operating Co., Inc.	Monroe	M	H SU724; Brown	001	187609
Bagby Operating Co., Inc.	Monroe	M	C W Smith	002	188427
Bagby Operating Co., Inc.	Monroe	M	Cole	001	142839
Bagby Operating Co., Inc.	Monroe	M	L Ramsey	001	142849
Bagby Operating Co., Inc.	Monroe	M	John Landrum	001	143006
Bagby Operating Co., Inc.	Monroe	M	Stella O'Neal	003	143123

Bagby Operating Co., Inc.	Monroe	M	Cole	003	143265
Bagby Operating Co., Inc.	Monroe	M	Cole	002	143304
Bagby Operating Co., Inc.	Monroe	M	Cole	006	143306
Bagby Operating Co., Inc.	Monroe	M	Laverne Ramsey	001	144462
Bagby Operating Co., Inc.	Monroe	M	Buckley	003	145915
Bagby Operating Co., Inc.	Monroe	M	Maude Harris	001	148774
Bagby Operating Co., Inc.	Monroe	M	E D Carter	001	149041
Bagby Operating Co., Inc.	Monroe	M	Arveal B Smith	001	187390
Bagby Operating Co., Inc.	Monroe	M	Arveal B Smith	002	187391
Bagby Operating Co., Inc.	Monroe	M	Arveal B Smith	003	187392
Birthright Oil & Gas Co.	Stella	L	Numa C Hero et al	001	149727
Continental Communications Inc.	Caddo Pine Island	S	F J Smith	006	109458
Dean Petroleum	Bayou Middlefork	S	Christel Meadows Cowser	001	131084 (30)
Energy Corp. of America, Inc.	Delta Farms	L	C W Hopkins SWD	002	29008
John C. Head	Little Creek	M	Gilmore Fee	001	92277
Chas. R. Lawrence, Jr.	Lockport	L	Lock Moore & Co Ltd Lease	001	042483
Manorado Oil Company	Colgrade	S	Browning	010	184968
Maximum Energy, Inc.	South Grand Cheniere	L	Estate of M O Miller MD	001	215814
Mettz & Carmody	Longwood	S	Beard-Sharp	001	085552 (23)
Charles A. O'Niell, Jr.	Golden Meadow	L	Ozeme Cheramie	001	036227
Roy Reese	Wildcat	S	Elizabeth Harp et al	001	024533
Louis J. Roussel	Golden Meadow	L	Inez Pierce	007	039624
Todd Oil Production Co.	Caddo Pine Island	S	Taylor	001	095591
Todd Oil Production Co.	Caddo Pine Island	S	Taylor	002	096889
Todd Oil Production Co.	Caddo Pine Island	S	Taylor	003	097690
Todd Oil Production Co.	Caddo Pine Island	S	Taylor	004	099259
Todd Oil Production Co.	Caddo Pine Island	S	Wells	006	179964
Todd Oil Production Co.	Caddo Pine Island	S	Wells	001	179992
Todd Oil Production Co.	Caddo Pine Island	S	Wells	002	179993
Todd Oil Production Co.	Caddo Pine Island	S	Wells	003	179994
Todd Oil Production Co.	Caddo Pine Island	S	Wells	004	179995
Todd Oil Production Co.	Caddo Pine Island	S	Wells	005	180253
Todd Oil Production Co.	Caddo Pine Island	S	Wells	007	181616
Todd Oil Production Co.	Caddo Pine Island	S	Wells	009	183181
Todd Oil Production Co.	Caddo Pine Island	S	Wells	008	183184
Todd Oil Production Co.	Caddo Pine Island	S	Wells SWD	006	970926
Todd Oil Production Co.	Caddo Pine Island	S	Lavine	001	052295
Todd Oil Production Co.	Caddo Pine Island	S	Lavine	002	053296
Todd Oil Production Co.	Caddo Pine Island	S	Taylor A	001	101226

Todd Oil Production Co.	Caddo Pine Island	S	Taylor A	002	101227
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	A-41	90952
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	044	92661
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	045	99946
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	046	105187
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	050	139945
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Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	057	140200
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	058	140201
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	059	140202
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	052	140549
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	062	140550
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	063	140551
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	064	140552
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	069	140553
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	051	140765
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	068	140766
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	074	168617
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	075	168618
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	076	168619
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	077	176661
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	078	176662
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	022	176663
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	080	176664
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	081	176684
Todd Oil Production Co.	Caddo Pine Island	S	Crystal SWD	018	194209
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Co SWD	024	971607
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	003	990206
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	007	990207
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	009	990208
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	010	990209
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	011	990210
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	018	990213
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	082	990215
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	023	990216

Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	040	990218
Todd Oil Production Co.	Caddo Pine Island	S	Crystal Oil Company	041	990219

Philip N. Asproditos
Commissioner of Conservation

0108#071

POTPOURRI

**Department of Revenue
Policy Services Division**

Possible Amendments to Sales Tax Definition
of Leases and Rentals

Under the authority granted to the Secretary of Revenue by R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue is contemplating amendments to LAC 61:I.4301.C relative to the definition of a *lease or rental* for sales tax purposes to better reflect current practices in the lease and rental industry.

In Louisiana, the lease or rental of tangible personal property for consideration is subject to the sales or use tax. *Lease or rental* is defined by R.S. 47:301(7) as the purchase of the right to possess or use tangible personal property owned by another party without the transfer of title to the property. Re-leases or sub-leases and re-rentals or sub-rentals are also considered leases or rentals. The following and similar transactions are being evaluated to determine if they meet the definition of a *lease or rental*:

- the furnishing of scaffolding;
- the furnishing of lighted construction barricades;
- the furnishing of refuse dumpsters by refuse service companies;
- the furnishing of ornamental plants by an owner who agrees to water, fertilize, prune, and otherwise care for the plants;
- the furnishing of gas compression services;
- the furnishing of portable toilet facilities;
- cylinder retention (demurrage) charges in connection with the sale of compressed gases; and
- the furnishing of fishing tools for oil and gas drilling rigs.

Interested persons are requested to submit data, views, or arguments, regarding the tax treatment of these and similar transactions, in writing, to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to (225) 925-3855. Comments should be submitted by 4:30 p.m., Friday, September 28, 2001.

Cynthia Bridges
Secretary

0108#076

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