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Executive Orders

EXECUTIVE ORDER MJF 01-20

Bond AllocationC Rapides Finance Authority

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 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 Rapides Finance Authority has requested an allocation from the 2001 Ceiling to finance mortgage loans for owner-occupied single-family residences of low and moderate income persons throughout the parish of Rapides, 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
\$5,500,000	Rapides Finance Authority	Single Family Mortgage Revenue Bonds

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before July 16, 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 17th day of April, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0105#001

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Registration of Livestock Pharmaceuticals
(LAC 7:XXIII.101, 103, 111, 115, and 117)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule for the implementation of regulations governing the registration of pharmaceuticals administered to livestock in accordance with R.S. 3:3(B) and R.S. 3:3202(A) and the emergency rules provisions R.S. 49:953(B), of 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. A question has been raised as to whether pharmaceuticals administered to livestock must be registered with the Department of Agriculture and Forestry before the sales and use tax exemption is available to the purchasers of such pharmaceuticals. Since purchasers of pharmaceuticals administered to livestock will save approximately \$200,000 a year in state and local sales taxes under the exclusion. The immediate implementation of this exclusion is an economic necessity to the producers of livestock in Louisiana.

Louisiana's livestock industry is currently suffering severe financial distress as a result of the four-year drought that this state is experiencing. The continued imposition of a tax on pharmaceuticals administered to livestock is a burden on Louisiana's livestock industry that directly affects the profitability of the livestock industry; which profitability is necessary to the continuation of the livestock industry in Louisiana. The livestock industry in Louisiana is a vital part of Louisiana's economic base. Therefore, financial deterioration and subsequent failures in the livestock industry pose an imminent peril to the welfare of the citizens of Louisiana. The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary in order to immediately implement registration of pharmaceuticals administered to livestock so that livestock producers may take immediate advantage of the sales and use tax exclusion.

These rules become effective upon signature and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

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 by Department of Agriculture and Forestry, Office of the Commissioner 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), amended by Department of Agriculture and Forestry, Office of the Commissioner, 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 by Department of Agriculture and Forestry, Office of the Commissioner, 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), amended by Department of Agriculture and Forestry, Office of the Commissioner, LR 27:

§117. Special Registrations

1 - 3.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.

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 by Department of Agriculture and Forestry, Office of the Commissioner, LR 27:

Bob Odom
Commissioner

0105#009

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:953(B) and R.S. 3:3203(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following rules for the implementation of regulations governing the application of certain pesticides in certain parishes.

The Department of Agriculture and Forestry, Advisory Commission is amending these rules and regulations for the purpose of adding certain Wards in Pointe Coupee, St. Landry, St. Martin, Iberville, and West Baton Rouge parishes through the emergency process due to the planting of cotton in these wards. The application of certain pesticides by commercial applicators between March 15 and September 15 in those named parishes as well as other parishes, should be prohibited. The application of certain pesticides poses a threat to Louisiana cotton growers in these Parishes and Wards. Even though the pesticides will not be applied to the cotton itself, but to the surrounding areas, the cotton is in a very delicate stage and if there is any drift from the application of these pesticides it will irreparably damage the cotton that has already been planted causing the Louisiana cotton growers to lose potential production from their crops and greatly effecting the Louisiana cotton industry.

The Department has therefore, determined that these emergency rules are necessary in order to restrict the commercial application of certain pesticides so that certain pesticides do not do irreparable damage to the seasons cotton crop. This rule becomes effective upon signature and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Advisory Commission on Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Applications of Pesticides.

§143. Restrictions on Application of Certain Pesticides

A. - B.17. ...

C. The pesticides listed in 143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes or wards:

- | | |
|----------------------------------|---|
| 1. Avoyelles | 16. Morehouse |
| 2. Bossier | 17. Natchitoches |
| 3. Caddo | 18. Ouachita |
| 4. Caldwell | 19. Pointe Coupee |
| 5. Catahoula | 20. Rapides |
| 6. Claiborne, Ward 4 | 21. Red River |
| 7. Concordia | 22. Richland |
| 8. DeSoto, Ward 7 | 23. St. Landry |
| 9. East Carroll | 24. St. Martin, Ward 5 |
| 10. Evangeline, Wards 1, 3 and 5 | 25. Tensas |
| 11. Franklin | 26. Union |
| 12. Grant | 27. West Carroll |
| 13. Iberville Ward 9 | 28. West Baton Rouge, Wards 5, 6, and 7 |
| 14. LaSalle | 29. Winn, Ward 7 |

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 27:

Bob Odom
Commissioner

0105#008

DECLARATION OF EMERGENCY

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

**Capital Companies Tax Credit Program
(LAC 13:XV.320)**

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:9536(B), adopts the following amendment to the rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1935. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective April 20, 2001 and shall remain in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Economic Development, Office of the Secretary has found an immediate need to provide financial assistance to certified Louisiana capital companies whose

primary investment objectives include investing in certified disadvantaged businesses or business ventures operating in economically distressed areas. Although the law provided for establishment of the investment funds discussed herein no funding has been made in over two years. Without these Emergency Rules the public welfare may be harmed as a result of the failure to provide funding to certified Louisiana capital companies whose primary investment objectives include investing in certified disadvantaged businesses or business ventures operating in economically distressed areas, which have resulted disruption resulting in the loss of industry and jobs in the disadvantaged communities of this State.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§320. Investment in Approved Funds

A. Any certified Louisiana capital company that has capital certified pursuant to R.S. 51:1931 for the calendar year 1999 or any year thereafter, and which qualifies for credits pursuant to R.S. 22:1068(E) shall invest an amount, as determined by the Secretary, into the following investments:

1. fifty percent of the amount determined by the Secretary shall be invested in one or more capital management funds as approved by the Secretary whose primary investment objectives include pre-seed, seed, and early stage business ventures, and whose investment in any such business and its affiliates is limited to one million dollars or less. Investments made by such funds must give special emphasis to the Targeted Technology Clusters identified in Vision 2020CMaster Plan For Economic Development as adopted by the Louisiana Economic Development Council; and

2. fifty percent of the amount determined by the Secretary shall be invested equally in any certified Louisiana capital company whose primary investment objectives include investing in the following three categories:

- a. certified disadvantaged businesses;
- b. business ventures operating in economically distressed areas; or
- c. Louisiana businesses and affiliates in an amount not exceeding one million dollars.

B. The amount to be invested by each certified Louisiana capital company pursuant to subsection A shall be determined annually by the secretary beginning January 1, 2000. Such amount shall not exceed 10 percent of all capital certified by such certified Louisiana capital company in the previous calendar year that are eligible for credits pursuant to R.S. 22:1068(E). The amount to be invested pursuant to subsection A shall be invested within 120 days from the end of the calendar year in which the capital is certified or 120 days from the date the secretary determines the amount to be invested, whichever is later. If certified capital is paid in pursuant to a debt instrument in accordance with the provisions of R.S. 22:1068(E)(1)(a) and LAC 13:XV. 303. *Investment(a)(iii)*, the investment required to be made by this section may be made at the rate of 10 percent of actual cash received each year.

C. The capital management fund referred to in Paragraph A.1 shall be managed by a qualified individual or individuals or entity that is managed by a qualified individual or individuals and governed by a board consisting of one representative from each certified Louisiana capital company that has invested in the management fund as required by this section and the secretary or his designee, who shall act in an advisory capacity only, with the right to attend meetings but with no voting privileges. The governing board of the capital management fund will develop policies for the administration and operation of the capital management fund. Certified Louisiana capital companies investing in such capital management fund, shall share in the profits and losses of such fund in accordance with the documents providing for the creation and organization of the fund. The fund shall submit reports to the secretary, semi-annually. The report shall include information on all investments made by the fund and a copy of the most recent financial statements of the fund and shall be submitted on a form provided by the secretary.

D. Any entities receiving funds pursuant to Paragraph A.1 or A.2 shall comply with all requirements of R.S. 51:1921 et seq. (Chapter 26 of Title 51 of the Louisiana Revised Statutes) and with this Chapter with respect to such funds received as if those funds were certified capital as defined in R.S. 51:1923(1) with the exception that:

1. such funds shall earn no additional tax credits;
2. for purposes of R.S. 51:1926(A)(1), fifty percent must be invested in qualified investments and for purposes of R.S. 51:1926(A)(2), eighty percent must be invested in qualified investments; and
3. One hundred percent of such funds shall be invested in qualified investments within eight years.

E. Amounts invested pursuant to Subsection A.2 shall be invested directly into a certified Louisiana capital company. Investments directly into a business shall not qualify as an investment pursuant to Paragraph A.2.

F. With respect to capital raised and certified pursuant to R.S. 22:1068(E) during the calendar year 1999 only, if a certified Louisiana capital company demonstrates to the secretary that investments made from 1999 certified capital were made or committed prior to December 1, 2000, were made with the understanding that they would qualify under §1935 and were made in accordance with the terms of a previous agreement entered into by the secretary, such investments will be deemed to qualify pursuant to this section.

G. If a certified Louisiana capital company which is required to invest funds by this section is also a certified Louisiana capital company described in Subparagraph A.1.b above, it shall not be required to reinvest part of its certified capital into another certified Louisiana capital company pursuant to the requirements of Subparagraph A.1.b; however, it must still make the investment required by Subparagraph A.1.a.

H. Any certified Louisiana capital company may request a determination from the secretary that it is a certified Louisiana capital company described in Subsection A.2. A request for a determination shall be addressed to the

secretary and shall include a copy of the certified Louisiana capital company's:

1. articles of organization;
2. by-laws;
3. investment policy; and
4. any disclosure statement distributed to prospective investors. If any of those documents have been amended from its original form, a copy of both the original and amended documents must be provided. The secretary may request any additional information that he deems necessary to make a determination.

I. Failure to comply with this section shall result in the following consequences.

1. In the event any certified Louisiana capital company subject to the provisions of Subsection A, fails to comply with the requirements of this section, the certified Louisiana capital company shall be subject to involuntary decertification of its capital in an amount equal to the amount of funds required to be invested pursuant to this section. Such involuntary decertification shall result in the disallowance and recapture of any tax credits related to such capital.

2. If any entity that receives funds pursuant to Subsections A.1 or A.2 fails to comply with the provisions of this section regarding the investment of such funds, the secretary shall have the authority to specifically direct how such funds shall be invested, including the authority to name a specific business and amount for an investment. If the entity fails to comply with such directive, the entity shall remit such funds to the secretary for investment. The entity shall retain ownership of any funds and investments made with such funds.

J. For purposes of this section only, the following terms shall have the meaning provided in this subsection.

*Business Ventures Operating in Economically Distressed Areas*Ca business whose principal place of business is located in a Census Block Group designated by the Department of Economic Development as an Enterprise Zone pursuant to R.S. 51:1784(A) and (B) and not considering any designation pursuant R.S. 51:1785(B).

*Certified Disadvantaged Businesses*Cshall include any business which has received certification as such from any federal, state or local government agency or has been certified as a Small and Emerging Business by the division of small and emerging business development in the Department of Economic Development.

*Early Stage Business Venture*Cshall include and enterprise that has high growth potential, minimal revenues or minimal profits.

*Pre-Seed*Cshall include an enterprise that conducts research and development to demonstrate proof of concept, files for initial patents and plans the enterprise for at least the two rounds of financing subsequent to initial investment in the enterprise.

*Seed*Cshall include an enterprise that is completing its initial product research and development, building a prototype, completing market research, hiring the initial management team members and formulating a strategy to achieve very high growth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1935.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 27:

Don J. Hutchinson
Secretary

0105#003

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Licenses Necessary for Entry (LAC 46:I.1105)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective April 18, 2001, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to provide for an age limitation for possessing an owner's license, and related requirements.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Horseracing Occupations

Chapter 11. Owners

§1105. Licenses Necessary for Entry

A. Before a horse may be entered, its owner or owners must secure the appropriate licenses from the commission, unless permission is granted by the stewards.

B. The minimum age for an owner's applicant is 16 years old. However, for every applicant under the age of 18 years old, the owner's license application shall be submitted with a notarized affidavit from his or her parent or legal guardian stating that the parent or legal guardian assumes responsibility for the minor licensee's financial, contractual and other obligations relating to the applicant's participation in racing. Further, the applicant's parent or legal guardian must be eligible and present for eligibility for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), repromulgated LR 3:25 (January 1977), LR 4:274 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 27:

Charles A. Gardiner III
Executive Director

0105#011

DECLARATION OF EMERGENCY

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) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend 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 changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective April 5, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

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

§703. Establishing Eligibility

A. ...

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:

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 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.

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:

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:.

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:

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:

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:

Mark S. Riley
Assistant Executive Director

0105#007

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI. 315)

Editor's Note: This Emergency Rule which appeared on page 507 of the April 20, 2001 *Louisiana Register*, is being republished to correct an error in the department listing.

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

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance to effectively administer this program. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that this Emergency Rules is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective March 9, 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 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 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

0105#004

DECLARATION OF EMERGENCY

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) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2) to clarify restrictions on the allocation of tuition assistance grants (TAGS).

The Emergency Rules are necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The authority has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective April 5, 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

§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:

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:

Mark S. Riley
Assistant Executive Director

0105#006

DECLARATION OF EMERGENCY

**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 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 provides coverage under the Medicaid Program for dentures and denture related services rendered to recipients age 21 years and older. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau has determined it is necessary to increase the reimbursement fees for certain designated procedure codes. In addition, the bureau proposes to establish requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid program. The bureau proposes that Adult Denture Program providers 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 would apply 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. This emergency rule is being adopted to continue the provisions contained in the January 21, 2001 rule.

Emergency Rule

Effective May 22, 2001 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fees for certain designated procedure codes to the following rates.

Procedure Code	Procedure Name	New Rate
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. 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.

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 emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0105#069

DECLARATION OF EMERGENCY

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

**Disproportionate Share Hospital Payment Methodologies
Large Public Non State Hospitals**

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 March 20, 1998 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24, Number 3). This rule was subsequently amended to include the definition of a teaching hospital as required by Act 19 of the 1998 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 25, Number 5). The

May 20, 1999 rule was later amended to revise the qualifying criteria for small rural hospitals as required by Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

The department adopted an emergency rule effective June 21, 1999 that established an additional disproportionate share hospital group for state fiscal year 1999 only, for large public non state rural hospitals that had at least 25 percent Medicaid inpatient days utilization. These qualifying hospitals were allowed to certify uncompensated care expenditures as match and to receive the equivalent of federal financial participation (FFP) in the same manner as small public non state rural hospitals (*Louisiana Register*, Volume 25, Number 6).

Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health and Hospitals to implement procedures to receive transfers of public funds from qualifying health care providers. The public funds would qualify as the state's matching share for the purpose of claiming federal financial participation (FFP). In compliance with Act 11, the department issued a public process notice announcing its intent to adopt an emergency rule to establish a supplemental payment to be issued to non state public hospitals, which are not recognized by the department as a small rural hospital, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients. In order to facilitate the transfer of public funds from qualifying health care providers as directed in Act 11, the department determined it was necessary to establish an additional disproportionate share hospital group for large public non state hospitals which are not recognized as small rural hospitals. These qualifying hospitals will be allowed to certify the state match and to receive the equivalent of federal financial participation (FFP) in the same manner as small, public non state rural hospitals. This emergency rule is being adopted to continue the provisions contained in the February 1, 2001 rule.

Emergency Rule

Effective June 2, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes an additional disproportionate share hospital group for large public non-state hospitals which are not recognized as small rural hospitals. For those hospitals that previously received disproportionate share payments in accordance with the October 21, 2000 emergency rule, the sum of the disproportionate share payments to these hospitals shall not exceed the hospital's uncompensated costs for the cost reporting period. These qualifying hospitals will be allowed to certify the state match and to receive the equivalent of federal financial participation (FFP) in the same manner as small public non state rural hospitals. A large public non state hospital is defined as any hospital owned by a parish, city or other local government agency or instrumentality; and not included in section III. A. or B. of the May 20, 1999 rule. A qualifying hospital may be a long term hospital. 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. Qualifying hospitals must maintain a log documenting the hospital's provision of uninsured care as directed by the department. All other provisions contained in the May 20, 1999 rule

remain intact. Issuance of the disproportionate share payment is contingent on the public non state hospital entering into a cooperative endeavor agreement with the department to certify public funds as representing expenditures eligible for FFP.

Disproportionate share payments to each qualifying public non state hospital are 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 July 1, 1999 through June 30, 2000 multiplied by the amount set for this pool. Payment will not exceed each qualifying hospital's actual uncompensated costs as defined in section I.G of the May 20, 1999 rule. 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.

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 emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0105#067

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment (EPSDT)
Dental ProgramC Reimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 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 provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount that any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the 7 percent reduction to the reimbursement rates for EPSDT dental services was restored and the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7). The bureau has subsequently determined that it is necessary to make additional increases to the fees for certain designated procedure codes in order to be in compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature. In addition, the bureau proposes to establish requirements for unique identification

information to be processed into all new removable dental prosthetics reimbursed under the Medicaid program. The Bureau proposes that EPSDT Dental Program providers 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 would apply 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. This emergency rule is being adopted to continue the provisions contained in the January 21, 2001 rule.

Emergency Rule

Effective May 22, 2001 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement fees for certain designated procedure codes to the following rates.

Procedure Code	Procedure Name	New Rate
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.

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 emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0105#002

DECLARATION OF EMERGENCY

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

Public Hospitals
Reimbursement Methodology
Upper Payment Limit

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 June of 1994 which established a prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). The January 1996 rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, an emergency rule was adopted to establish supplemental payments to non-state public hospitals, which are not recognized by the Department as small rural hospitals, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients (*Louisiana Register*, Volume 26, Number 12). Issuance of the supplemental payment is contingent on the public hospital entering into a cooperative endeavor agreement with the department to certify public funds as representing expenditures eligible for federal financial participation (FFP).

The bureau now proposes to utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). 42 CFR §447.272(c) and §447.321(c) states as follows: "Exceptions C (1) Non-State government-operated hospitals. The aggregate Medicaid payments may not exceed 150 percent (150%) of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles in subchapter B of this chapter." This action is being taken to enhance federal revenues in the Medicaid Program. It is estimated that the expenditures necessary to implement this emergency rule will be approximately \$45,835,864 for state fiscal year 2001-02.

Emergency Rule

Effective April 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). The hospital payment differential for any year shall be the difference between 150 percent of the upper limit of aggregate payments to non-state government-owned or operated hospitals, as defined in the 42 CFR §447.272(c) and §447.321(c), and the aggregate Medicaid per diem reimbursement paid to these hospitals for the year.

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

David W. Hood
Secretary

0105#068

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 May 1, 2001. This Emergency Rule will remain in effect for a period of 120 days.

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, LR 27:431 (March 2001), amended LR 27:

J. Renea Austin-Duffin
Secretary

0105#010

DECLARATION OF EMERGENCY

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Disability (LAC 58:I.2501 - 2523)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend and reenact LAC 58:I.2503, 2505, 2507, 2509, 2511, 2513, 2525, 2527, and 2529, and to repeal LAC 58.I. 2501, 2521 and 2523, and renumber accordingly.

The Retirement System is changing the administration of the disability program from the current Third Party Administrator to begin the administration of the disability program in-house. In order to protect the welfare of the disability applicant it is necessary to promulgate these emergency rules to ensure that there will be no interruption of service to disability applicants, who may have no other source of income. It is in the best interest of the disability applicants, to ensure their welfare that there be no interruption in the administration of the disability program, and the enactment of these rules should ensure that no interruption is service occurs.

These rules shall become effective on June 1, 2001, and will remain in effect for 120 days.

Title 58

RETIREMENT

Part I. State Employees' Retirement

Chapter 25. Procedures for Processing Disability Applications

§2501. Application for Disability Retirement

A. Applications for disability retirement shall be submitted in accordance with instructions provided to the applicant or applicant's employer by LASERS, and shall be reviewed as follows.

1. Upon receipt of a disability application, LASERS shall verify applicant's eligibility within five business days of receipt of the application.

2. The application; examining physician's report; the disability report by immediate supervisor; and report by applicant's human resource administrator shall be reviewed for completeness.

3. If the application or any of the required forms are incomplete or missing, the applicant shall be notified in writing, and will have 10 business days to furnish the

requested information. If the applicant fails to comply with this request the Application shall be rejected as ineligible.

B. Whether the applicant is determined to be eligible or ineligible to apply for disability, the applicant shall be notified in writing by LASERS within 10 business days of the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998), LR 27:

§2503. Disability Board Physician's Recommendation

A. LASERS shall determine the appropriate State Medical Disability Board physician to perform the initial medical review, based on the area of medical specialty most closely related to applicant's disability.

B. If the State Medical Disability Board does not have a physician practicing in the requisite specialty, LASERS shall appoint a physician who practices in the requisite specialty to the Board or as an alternate physician to perform the initial medical review.

C. The State Medical Disability Board physician shall determine from his review whether to conduct a medical examination of the applicant, or waive the medical examination because obvious and overwhelming medical evidence of disability exists to his satisfaction.

D. State Medical Disability Board physician determines that a medical examination is needed to determine whether an applicant is eligible for a disability retirement, LASERS shall schedule an appointment with the appropriate Board physician. The applicant shall be notified of the appointment date and time in writing. The initial examination shall be completed within six weeks of the date the completed disability application is received and eligibility is verified by LASERS.

E. LASERS shall pay the cost of the initial medical examination, including cost of laboratory tests, x-rays, and other direct examination procedures. If the Applicant fails to appear for this medical examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:

§2505. Final Determination

A.1. LASERS shall review the State Medical Disability Board physician's recommendation and based on that recommendation, either approve, or disapprove the application. An applicant shall be considered as certified totally disabled when the State Medical Disability Board physician declares the applicant to be totally incapacitated for the further performance of the normal duties of the job and states that such incapacity is likely to be permanent. In all cases, the examining physician shall make a recommendation if the application should be approved or disapproved. If the physician's recommendation is unclear, the file shall be forwarded to the disability manager for review. The disability manager shall contact the physician for clarification of the recommendation.

2. If a correction officer, probation or parole officer, or security officer of the Department of Public Safety and

Corrections, or an employee of the enforcement division in the Department of Wildlife and Fisheries is found to be permanently totally or partially disabled the applicant shall be entitled to a disability retirement benefit in accordance with either R.S. 11:212(B) or 214, as applicable.

B. If the disability manager cannot make a clear determination, the file shall be sent to LASERS' Executive Director, who shall contact the examining physician for clarification, or another State Medical Disability Board physician for consultation, or an appointed alternate physician shall be consulted when necessary.

C. Any unusual applications shall immediately be presented to the Executive Director for his review and determination on how it should best be handled.

D. When the final determination is made, the applicant shall be notified in writing and a copy shall be forwarded to applicant's agency.

E. A final determination shall be made within 120 days from the date the completed application is verified by LASERS.

F. Disability benefits shall accrue from the date the application was filed or from the day following exhaustion of all sick leave or annual leave claimed by applicant, whichever is later. If an applicant elects to remain on unused sick or annual leave past the 120 days necessary to complete his application, a waiver shall be signed by the applicant and a re-exam shall be scheduled at LASERS' expense after one year from date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:

§2507. Contesting Board Physician's Determination

A. If the certification of the examining physician is contested by either the Applicant or LASERS, the contesting party shall have the right to a second medical examination if a written appeal is filed within 30 days of notification of the initial determination.

B. The second examination shall be performed by a State Disability Board Physician, or appointed alternate physician. LASERS shall schedule the appointment and notify the applicant of the time and place of the second examination in writing.

C. The cost of the second examination shall be paid by the contesting party. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

D. If the second physician concurs in the findings and recommendations of the first physician, the original decision shall stand as final and binding on the parties.

E. If the second physician disagrees with the first physician's finding and recommendation, the two physicians shall select a third physician to conduct another examination. The findings and recommendations of the third physician shall be binding, and the cost of the third physician shall be paid by LASERS if the applicant is certified disabled, or by the applicant if the disability claim is denied. If the Applicant fails to appear for this examination and the physician charges a cancellation fee, the Applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:

§2509. Judicial Appeal

The applicant has the right to appeal the decision that applicant is not entitled to a disability retirement to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within 30 days of the receipt of the final medical decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:

§2511. Certification of Continuing Eligibility

A. LASERS shall require a disability retiree to complete an Annual Attending Physician Statement (AAPS) once each year during the first five years following the disability retirement and once in every three years thereafter until the retiree has reached the equivalent age of regular retirement unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability. The AAPS needs to be returned within ten business days of receipt by the disability retiree. Depending on the results of the AAPS LASERS may require a disability retiree to undergo a medical examination.

B. If a medical examination is required LASERS shall schedule the appointment with a State Medical Board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. LASERS must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C. The disability retiree shall be notified in writing of the physician's determination. If the physician does not recommend continuing disability, the disability retiree has the same appeal rights as the original applicant as set forth in §2507 herein.

D. If the disability retiree refuses to submit to the examination, or fails to submit the AAPS in the manner set out above his benefit shall be discontinued until he agrees to the examination or submits the AAPS. The benefit will be discontinued 30 days after written notification to the disability retiree. If the refusal continues for one year, all of the retiree's rights in and to the disability benefit shall be revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:1490 (July 2000), LR 27:

§2513. Limitation on Earnings

A. If a disability retiree is gainfully employed, the amount of the retiree's earnings are limited; the total amount of earnings plus the disability benefit cannot exceed his final average compensation.

B. For purposes of computing this limitation, an annual cost-of-living adjustment to the final average compensation shall be made based on the Federal Consumer Price Index for the preceding calendar year.

C. The disability retiree must notify LASERS immediately if the retiree becomes employed and the retiree's earnings will exceed the limitation.

D. Each disability retiree shall submit a notarized annual statement of earned income for the previous calendar year. The statement must be submitted no later than May 1, of each calendar year, otherwise the benefit will be discontinued effective June 1 of that calendar year, without retroactive reimbursement, until the statement is filed. If a disability retiree refuses to submit the statement for the remainder of the calendar year, all the retiree's rights in and to the disability retirement shall be revoked.

E. If the earnings limit is exceeded, future benefits shall be reduced to recover the amount of excess earnings. The disability retiree shall be notified in writing of the reduced amount at least 30 days prior to the reduction taking effect.

F. If it is determined that a disability retiree is engaged in gainful occupation which places the retiree over the earnings limit, then the amount of the disability benefit shall be reduced to an amount within the retiree's earnings limit. Should the retiree's earning capacity later change, the disability benefit may be further modified in accordance with R.S. 11:221.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:

§2515. Report to the Board of Trustees

A. The applicants' names and disposition of applications shall be provided to the board in addition to the monthly retirement supplement for the board's ratification.

B. The board shall receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants annually in March for the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:

§2517. Appointment of Physicians to the State Medical Disability Board

A. Physicians may be appointed to the State Medical Disability Board or as an alternate physician by the Executive Director. Such appointments shall be subject to ratification by the Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:

§2519. Termination of Benefits

A. Upon receipt of a final medical determination that a disability retiree is no longer disabled as a result of the failure to obtain a certification of continuing eligibility the retiree shall have the right to appeal the medical determination under §2507 herein. The benefit shall continue during the appeal period.

B. The disability retiree has the right to appeal this decision to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within thirty (30) days of the receipt of the Board's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:

§2521. Notices

A. Any notice that will terminate a benefit given under this Chapter shall be given as follows.

1. If a disability retiree, the notice shall be given with the retiree's benefit check. If the retiree is receiving his benefit through an electronic fund transfer (EFT), the EFT shall be discontinued for the month notice is required and the retiree shall receive a paper check for that month; or

2. If no benefit is being paid by LASERS, the notice shall be by certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:

§2523. Conversion to Regular Retirement

A. In accordance with R.S. 11:217, when a disability retiree vest in a regular retirement benefit under R.S. 11:441, except R.S. 11:441(4), the disability retiree shall be converted to a regular retiree upon attaining the normal vested retirement age and shall receive the full vested benefit. The retiree shall have the option to, but not be required, to select the regular retirement benefit under R.S. 11:441(4) in lieu of a disability retirement benefit if the retiree qualifies for the benefit under R.S. 11:441(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:

Glenda Chambers
Executive Director

0105#012

DECLARATION OF EMERGENCY

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

2001 Spring Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2001 Spring Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 21, 2001, except the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D) which shall open at 6 a.m., May 14, 2001; and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, as well as that portion of the State's Territorial Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the Atchafalaya River Channel at Eugene Island as delineated by the River Channel buoy line to Freshwater Bayou, all to open at 6 a.m., May 10, 2001; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas State Line, to open at 6 a.m. May 28, 2001.

The commission also hereby grants to the secretary of the Department of Wildlife and Fisheries the authority to close any portion of the state's inshore waters to protect small white shrimp if biological and technical data indicates the need to do so, or enforcement problems develop.

Dr. H. Jerry Stone
Chairman

0105#005

Rules

RULE

Department of Economic Development Office of Financial Institutions

Residential Mortgage Lending Continuing Education (LAC 10:XII.101-113)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1085 and R.S. 6:1094(A) of the Residential Mortgage Lending Act, (RMLA), the Commissioner of Financial Institutions has adopted the following rule to provide guidelines governing required professional education for licensure pursuant to the RMLA by establishing requirements, procedures and standards for persons intending to participate in the RMLA continuing education program by conducting educational programs regarding licensure activity pursuant to the RMLA.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XII. Residential Mortgage Lending

Chapter 1. Residential Mortgage Lending Program

§101. Purpose

This Rule establishes minimum requirements that a certified continuing education facilitator must meet; procedures and standards for the facilitator's certification; and a procedure for verifying that continuing education requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001).

§103. Procedures and Standards for Facilitator Course Certification

A. Persons who want to participate in the Residential Mortgage Lending Continuing Education Program as a facilitator must obtain certification by the commissioner of Financial Institutions ("commissioner") before engaging in that activity. Facilitators are subject to review by the Residential Mortgage Lending Board and must demonstrate their ability to provide an educational program relevant to the mortgage business. Facilitators providing educational programs with live class settings must provide instructors with knowledge, experience and teaching skills and provide quality student materials necessary to improve the professional level of licensees. A facilitator must submit to the board the following not less than 30 days prior to the expected use of the program and pay a \$500 course evaluation fee as provided by R.S. 6:1094(C)(2). The commissioner may waive the 30-day requirement for good cause upon written request.

1. Continuing Education Facilitator Application on a form provided by the commissioner, along with its required attachments.

2. A copy of the student workbook and materials and a course outline on subject matter chosen from the approved topic list provided by the commissioner. The outline shall include presentation time specifications, a list of resource material, training aids, and the method of presentation.

a. If a facilitator submits a course with copyrighted materials, every student must be provided with original materials as part of the registration. No substitute texts, outlines, summaries or copyright infringements will be allowed.

b. Proprietary student material must be submitted to the board for review based on its own merits and must not infringe on existing copyright materials.

c. Description of the course material provider's method and frequency of updates to insure the integrity of the material.

3. Evidence that the course material is current and includes new developments in the residential mortgage business.

4. Any course that has not been certified by the commissioner before the date on which it is to be presented shall not be represented or advertised in any manner as "certified" for continuing education credit.

5. Certification is for one year. A facilitator may be re-certified by providing evidence that course materials are current and include recent changes in federal and state laws, rules, and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001).

§105. Course Requirements

A. Each certified facilitator conducting courses in Louisiana must meet the following requirements.

1. Courses must consist of at least eight hours of certified continuing education courses on topics submitted with the application and chosen from the approved topic list on a form provided by the commissioner.

2. Two hours of RMLA Orientation covering the Office of Financial Institutions' (OFI) application process, examination, and general overview of the Louisiana Residential Mortgage Lending Act. OFI will provide material to instructors.

3. A training schedule on a form provided by the commissioner must be submitted with each request for certification and re-certification. Any change in this schedule must be filed with the commissioner not less than seven days prior to the scheduled date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001).

§107. Training Facility Requirements for Live Class Settings

A. The training facility must be easily accessible and secure for the safety of the student. It must comply with all applicable state and federal laws, including but not limited to the Americans with Disabilities Act of 1990.

B. An atmosphere conducive to the education presentation shall be maintained, including good housekeeping; controlled environment as to heating and cooling; proper lighting; and proper furnishings.

C. The instructional area of the facility should be for the exclusive use of the instructional course while in session.

D. The facilitator is responsible for adequate training aids, overhead viewing equipment availability and proper visual layout of the classroom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001).

§109. Procedures for Verifying Continuing Education Credits

A. The facilitator must submit a list of all participants who complete their course to the commissioner in a format approved by the commissioner. The list must be submitted within five business days of the course. The facilitator shall issue a certificate on a form approved by the commissioner, to each individual within 10 business days of successfully completing the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001).

§111. Program ReviewC Disciplinary Action

A. The commissioner, his designee, or a board member with approval of the commissioner shall have the authority to visit a training facility and review the facilitator's program at any time. Visits may include the review of curriculum records, review of attendance records and observation of instructional sessions in progress.

B. The certification of a facilitator may be suspended or revoked by the commissioner if he determines that:

1. the facilitator's teaching method or curriculum does not meet the standards of this rule or has been significantly changed from that submitted for certification without notice to the commissioner for approval;

2. the facilitator certifies to the commissioner that an individual has completed an approved course in accordance with the standards furnished for certification or completion of the program, when in fact the individual has failed to do so;

3. the facilitator fails to issue a certificate to an individual who has satisfactorily completed the seminar in accordance with the standards furnished for certification; or

4. the commissioner determines there is good and just cause to suspend or revoke certification.

C. Reinstatement of a suspended certification may be made upon the furnishing of proof satisfactory to the

commissioner that the conditions responsible for the suspension have been corrected.

D. The commissioner, his designee, or the board at the commissioner's direction, shall review all written complaints lodged against a facilitator or instructor. A meeting may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. If the facilitator's certification is suspended, the facilitator must respond to the commissioner within 15 days after receiving notice of such suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001).

§113. Facilitators for Courses Conducted Out of State

A. Certified facilitators who provide courses at locations out of state must comply with all parts of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001).

John D. Travis
Commissioner

0105#040

RULE

**Department of Economic Development
Racing Commission**

Account Wagering (LAC 35:XIII.Chapter 120)

The Louisiana State Racing Commission has adopted the following Rule (chapter).

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 120. Account Wagering

§12001. Definitions

*Account Holder*Ca person authorized by the licensee to place wagers via account wagering.

*Account Wager*Ca wager placed by means of account wagering.

*Account Wagering*Ca form of pari-mutuel wagering in which an individual may deposit money in an account with a licensee and use the account balance to pay for pari-mutuel wagering authorized by R.S. 4:149.5 to be conducted by the licensee. An account wager may be made by the account holder in person, via telephonic device or by communication through other electronic media.

*Account Wagering Center*Cthe facility or facilities for maintaining and administering the account wagering system.

*Source Market Area*Cthe circular area within a 55-mile radius of a licensed racing facility and any additional area within which the consent of such facility is required as a prerequisite to the acceptance of off-track wagers by another licensee.

*Source Market Commission*Call fees or commissions received by any racing association as a result of account wagers being placed with the entity that pays such fee or

commission or any entity other than the racing association receiving said fee or commission by persons residing within a defined market area near the racing association and shall include a fee which shall be paid by a licensed racing facility which accepts an account wager to another licensed racing facility whenever the person placing the account wager:

1. resides within the source market area surrounding the latter licensed racing facility; and

2. does not place the wager in person at the facility accepting the wager. The percentage used to calculate the source market commission shall be, with respect to each account wager accepted on a particular day, equal to the highest source market percentage paid on that day to the licensed racing facility within the source market area by any other account wagering carrier located outside of the state.

Wagering Account or *Account*—the account maintained and administered through an account wagering center for account holders who wish to place account wagers and otherwise participate in account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:689 (May 2001).

§12003. Authorization

A. A system of account wagering may be operated only by a licensee, or employees or agents of such licensee, who is/are authorized to do so pursuant to R.S. 4:149.5(B)(1). The authorized licensee may, subject to applicable state and federal laws, conduct account wagering on any races conducted at its facility and on any races conducted at other facilities, within or outside of this state. Wagering accounts may be established for an individual whose principal residence is outside this state if the racing association complies with all applicable provisions of federal and state law. All wagers placed through the licensee's system of account wagering shall be considered to have been made in this state.

B. An authorized licensee may not accept wagers from residents located in proximity to the racing facility of another licensee as provided for in R.S. 4:214(A)(3), without having provided the commission with sufficient evidence of how the authorized licensee intends to identify such account holders and pay to such other licensee the source market percentage required to be paid pursuant to R.S. 4:149.5(B)(2).

C. A licensee of race meetings shall provide the commission with written evidence of its consent to the acceptance, by an operator of a system of account wagering located outside this state, of wagers placed with such account wagering system by residents or other persons located within or outside of this state on races conducted in this state by that licensee. In the absence of such written evidence, no system of account wagering located outside this state may accept such wagers.

D. A licensee of race meetings authorized pursuant to R.S. 4:149.5(B)(1) to conduct account wagering in this state shall provide the commission with written evidence of its consent to the acceptance, by an operator of a system of account wagering located outside this state, of wagers placed with such account wagering system by residents or other persons located within this state on races conducted outside this state. In the absence of such written evidence, no system

of account wagering located outside this state may accept such wagers.

E. A licensee, as defined in R.S. 4:149.5, may conduct account wagering made in person, by telephonic device or by communication through other electronic media. The maintenance and operation of account wagering shall be in accordance with the *Rules of Racing* and R.S. 4:149.5. The licensee shall request authorization and receive approval from the commission before a system of account wagering is offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:690 (May 2001).

§12005. Establishment

A. The licensee may offer a system of account wagering to its patrons whereby wagers are debited in, and payouts credited to, an account in the name of the patron, that is held by the licensee. The licensee shall notify the patron, at the time of opening the account, of any rules or procedures the licensee has adopted concerning deposits, withdrawals, average daily balances, user or service fees, interest payments, hours of operation, and any other aspect of the operation of the account. The licensee shall notify the patron whenever the rules governing the account are changed and shall endeavor to provide such notification before the new rules are applied to the account and including the opportunity to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operation upon opening or not closing the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:690 (May 2001).

§12007. Compliance

A. Account wagering shall be conducted in compliance with the *Rules of Racing* and all applicable state and federal laws. Unless elsewhere specifically set forth, an account wager shall be subject to the statutory provisions and rules and regulations which govern all pari-mutuel wagers placed within the enclosure at which the licensee is authorized to conduct race meetings. From each account wager, there shall be deducted the same percentage as is deducted on a wager if made in person in the same wagering pool at the licensee's race track.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:690 (May 2001).

§12009. Wagering Pools

A. The total amount of all account wagers shall be included in the respective pools for each race and shall be combined into the licensee's pools or, with approval of the commission, directly into the corresponding pools of a host track in another jurisdiction. The amount wagered in such pools from wagering accounts shall be debited accordingly, and any winnings shall be automatically credited to such accounts upon the race being declared official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:690 (May 2001).

§12011. Hours of Operation

A. Account wagers shall be accepted during such times and on such days as designated by the licensee, subject to state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12013. Service Fees

A. As part of its rules, the licensee may, with the approval of the commission and prior notice to the account holder, impose user or service fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12014. Source Market Commissions

A. Fifty percent of all source market commissions shall be distributed at the licensed racing facility which receives such source market commissions for the purposes and in the percentages provided in the provisions of R.S. 4:183(A)(4)(a) and (b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, R.S. 4:149.5 and R.S. 4:183.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12015. Account Wagering Center

A. The licensee shall operate an account wagering center(s) for the purpose of keeping wagering accounts, recording wagers, maintaining records of credits and debits to the accounts, and otherwise administering the account wagering system. The location of such account wagering center(s) shall be subject to the approval of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12017. Licensees' Employees and Agents

A. The licensee shall appoint officers, employees or agents of the licensee to have management and control of the various aspects of the account wagering system for the licensee, including the account wagering center. As used herein, *licensee* includes the officers, directors and employees of the licensee, and persons, agents or other entities with the authority to accept deposits and wagers on behalf of the licensee and otherwise maintain and administer the system of account wagering. Such persons or entities may also provide services linking transactions from an account holder to a totalizator company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12019. Wagering Accounts

A. Only those persons who have a wagering account with an account wagering center shall be permitted to wager

through account wagering. An account may be established at an account wagering center, at a racetrack or off-track wagering facility within the state, by mail, or by other means approved by the commission.

B. The licensee shall accept accounts in the name of a natural person only. The licensee shall not accept any corporate, partnership, limited liability company, joint, trust, estate, beneficiary or custodial account. The account is nontransferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12021. Account Holder's Responsibilities

A. Wagering accounts are for the personal use of the account holder. Account holders are responsible for all bets placed through their accounts by any person using the account. The account holder bears full responsibility for maintaining the secrecy of his/her account number and confidential identification code.

B. Except as otherwise set forth herein, no person shall in any manner place any account wager on behalf of an account holder, or otherwise directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for an account holder. The licensee is not prohibited from conducting account wagering through employees or agents. Nothing in §12021 is intended to prohibit the use of credit or debit cards or other means of electronic funds transfer, or the use of checks, money orders or negotiable orders of withdrawal.

C. Neither the licensee nor any officer, director, employee or agent of the licensee shall be responsible for any loss arising from the use of or access to a wagering account by any person or persons other than the account holder, except where the licensee or its employees or agents act without good faith or fail to exercise ordinary care. The account holder must immediately notify the account wagering center of a breach of the account's security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12023. Minors Prohibited

A. No person below the age of 18 shall be permitted to open an account or place a wager, directly or indirectly, through account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12025. Others Prohibited

A. No officer, director or employee of any firm, entity or agency which is retained by the licensee with responsibility for the operation or maintenance of the account wagering system or of the account wagering center shall be permitted to place a wager, directly or indirectly, through the licensee's system of account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12027. Opening Wagering Account

A. An applicant for a wagering account shall make application in writing on the appropriate form supplied by the licensee at an account wagering center, at a racetrack or off-track wagering facility within the state, by mail, or by other means approved by the commission. The applicant shall provide his/her full name, current address and telephone number, social security number, and such additional information as the licensee may require. It is the account holder's responsibility to keep his/her mailing address current with the account wagering center. The application shall be signed by the applicant or otherwise authorized in a manner acceptable to the commission. Applicants must state in their application whether they are below the age of 18.

B. Each account shall have a unique identification account number (and such other methods of identification as the licensee may require). Such number may be changed at any time provided the licensee informs the account holder in writing of the change.

C. At the time of applying for an account, each applicant shall select a confidential identification code to be used as further identification when wagering. Both the licensee and the account holder have the right to change this code at any time without explanation by informing the other party in writing of such change and the effective date thereof.

D. An account holder shall receive at the time the account is opened a unique identification account number; an identification card; a summary of the rules; an explanation of the procedures then in force for depositing to, withdrawing from and closing the account; a telephone number to be utilized by the account holder; a description of the mechanics of wagering; and such other information as the licensee or commission may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:692 (May 2001).

§12029. Deposits and Withdrawals

A. Deposits to and withdrawals from existing accounts shall be permitted in such form and by such procedures as the licensee may require, provided that any requirements set forth in these rules shall be included therein.

B. Deposits made to a wagering account may be made as follows.

1. Deposits made to a wagering account by the account holder shall be submitted or mailed by the account holder to the staff or agents of the licensee at such locations and addresses as the licensee may designate from time to time, and shall be in the form of one of the following:

- a. cash given to the staff at an account wagering center, or a racetrack or off-track wagering facility within the state; or
- b. check, money order or negotiable order of withdrawal; or
- c. charges made to an account holder's credit or debit card or other means of electronic funds transfer, upon the direct and personal instruction of the account holder, which may be given by telephone or other electronic device

(or other means approved by the commission) to the licensee by the account holder if the use of the card or other means of funds transfer has been approved by the account wagering center.

2. Credit for winnings from wagers placed with funds in a wagering account, credit for account wagers on horses that are scratched, and other payments or refunds to which the account holder is entitled shall be posted to the account by the account wagering center.

3. The account wagering system shall not accept wagers or information assisting in the placement of wagers in excess of the amount posted to the credit of an account at the time the wager is placed.

C. Debits to a wagering account may be made as follows.

1. Upon receipt by a licensee of a wager or information assisting in the placement of wagers properly placed under applicable statutes and the *Rules of Racing*, the licensee shall debit the account holder's account in the amount of the wager.

2. A licensee may authorize a withdrawal from a wagering account when one of the following exists.

a. The holder of a wagering account applies in person at an account wagering center, or a racetrack or off-track wagering facility within the state, and provides proper identification, the correct personal identification account number, and a properly completed and signed withdrawal form.

b. The account holder has authorized the licensee to make such a withdrawal. Where there are sufficient funds in the account to cover the withdrawal, the account wagering center shall, within five business days of receipt, send a check to the account holder at the current address on record for the wagering account. The check shall be payable to the holder of the account and in the amount of the requested withdrawal, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws (including but not limited to compliance with federal rules concerning the reporting or withholding of federal income tax). If funds are not sufficient to cover the withdrawal, or the full amount requested is otherwise not being sent, the account holder will be notified in writing and those funds in the account, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws, will be withdrawn and sent to the account holder within five business days. Electronic transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the account wagering center.

3. A licensee may debit an account for fees for service or other transaction-related charges.

D. Checks offered for deposit shall not be posted to the credit of the account holder until the hold period established by the licensee has elapsed. Holding periods will be determined by the licensee and advised to the account holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:692 (May 2001).

§12031. Deceased Account Holder

A. In the event an account holder is deceased, funds accrued in the account shall be released to the decedent's

legal representative upon receipt of a copy of a court order or judgment of possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:692 (May 2001).

§12033. Licensee's Rights and Responsibilities

A. Notwithstanding any other rules, the licensee, through its managing employee of the account wagering center, or other employee or agent designated by the licensee, shall have the following rights and responsibilities.

1. The licensee has the right to refuse the establishment or maintenance of accounts for what it deems good and sufficient reason.

2. The licensee has the right to refuse deposits to accounts for what it deems good and sufficient reason.

3. The licensee has the right at any time to refuse to accept all or part of any wager for what it deems good and sufficient reason.

4. The licensee has the right at any time to declare the account wagering system closed for receiving wagers on any pari-mutuel pool, race, group of races, or closed for all wagering.

5. The licensee has the right to suspend or close any account at any time. When an account is closed, the licensee shall, within five business days, return to the account holder such monies as are on deposit at the time of said action, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws, by sending a check to the account holder's current address.

6. The licensee has the right to close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period established by the licensee. In either case, the licensee shall refund the remaining balance of the account, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws.

7. No employee or agent of the licensee employed or engaged at the account wagering center shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the account wagering center, except to the account holder or the commission, as required by these rules, and as otherwise required by federal or state law, or the *Rules of Racing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:693 (May 2001).

§12035. Account Operations and Procedures

A. Account wagers shall be accepted during such times and on such days as designated by the licensee, subject to state law.

B. The account holder shall provide the licensee with the correct personal identification account number previously assigned by the licensee to the holder of the wagering account, as well as the account holder's confidential identification code.

C. Any account wagering system must provide for the account holder's review and finalization of a wager or information assisting in the placement of a wager before it is accepted by the licensee. The wager shall not be changed

after the account holder has reviewed and finalized the wager, and the conversation or wagering transaction has been concluded.

D. Payment on winning account wagers shall be posted as a credit to the account of the account holder as soon as practicable after the race is declared official.

E. No licensee may accept an account wager, or series of account wagers, in an amount in excess of funds on deposit in the account of the account holder placing the wager. Funds on deposit include amounts credited and in the account at the time the account wager or account wagers are placed. Account wagers will not be accepted which would exceed the available balance in the account.

F. When an account holder is entitled to a payout or refund, such monies will be credited to the respective accounts, thus increasing the credit balance. It is the responsibility of the account holder to verify proper credits and, if in doubt, notify the licensee within the agreed upon time frame for consideration. Unresolved disputes may be forwarded to the commission by the licensee or the account holder. No claim will be considered by the commission unless submitted in writing and accompanied by supporting information or evidence.

G. Monies deposited with the licensee for account wagering shall not bear any interest to the account holder.

H. The licensee shall maintain equipment capable of recording all wagering conversations and transactions conducted through the account wagering system. The recording device must be used at all times when wagering communications are received.

I. For wagers made by voice telephone, the licensee shall make a voice recording of the entire transaction and shall not accept any such wager if the voice recording system is inoperable. The voice recording of the transaction shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system.

J. All wagering conversations, transactions or other wagering communications through the account wagering system, verbal or electronic, shall be recorded by means of the appropriate electronic media, and the tapes or other records of such communications kept by the account wagering center for a period of time which the commission may establish. These tapes and other records shall be made available to commissioners, employees and/or designees of the commission in accordance with the *Rules of Racing*.

K. The address provided in writing by the account holder to the account wagering center is deemed to be the proper address for the purposes of mailing checks, account statements, account withdrawals, notices, or any other appropriate correspondence. It is the account holder's responsibility to maintain a current address of record with the account wagering center. The mailing of checks or other correspondence to the address given by the account holder shall be at the sole risk of the account holder.

L. The account wagering center shall, from time to time, but not less than once per year, provide written statements of account activity during the period to all account holders. In addition, an account holder has the right to request and be provided a statement at any time. Unless written notice to the contrary is received by the licensee within 30 days of the date that any such statement is rendered to an account

holder, said statement shall be deemed accepted as correct in any and all particulars.

M. Subject to commission approval, the licensee may implement procedures for the use of wagering accounts for wagering while at facilities in this state where pari-mutuel wagering is permitted and for wagering by any other electronic means.

N. The commission may review and audit the account wagering systems equipment configuration and account wagering center. Any telephone communications system, whether touch tone, voice response, or operator controlled, and all other electronic media utilized for account wagers, shall be linked to a totalizer system in a manner approved by the commission. For the purposes of account wagering, totalizer equipment utilized by or linked to the licensee shall be capable of accounting for all wagering and other transactions which may affect customer accounts. The licensee must maintain complete records of every deposit, withdrawal, wager, refund and winning payout for each account. These records shall be made available to the commission in accordance with the *Rules of Racing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:693 (May 2001).

Charles A. Gardiner III
Executive Director

0105#032

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
CHigh School Credit for College Courses (LAC28: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 amendment removes restrictions that prevent students from receiving dual enrollment credit while in high school.

**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

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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 27:694 (May 2001).

**Bulletin 741C Louisiana Handbook for School Administrators
CHigh School Credit for College Courses
(Applies to students attending college part time)**

2.105.43 Repealed

2.105.44 Repealed

2.105.45 Repealed

2.105.46 The principal of the high school shall approve the advanced offering to be pursued by the student in college.

2.105.47 The student shall meet the entrance requirements established by the college.

2.105.48 The student shall earn at least two or three college hours of credit per semester. A course consisting of at least two college hours shall be counted as no more than one unit of credit toward high school graduation.

2.105.49 The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine- week intervals.

2.105.50 College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

Students may participate in college courses and special programs during regular or summer sessions. High school credit for summer courses is subject to Standards 2.105.46 - 2.105.50.

**High School Credit for College Courses
in Vocational Education (Applies to students
attending college part time)**

2.105.59 The student shall meet the entrance requirements established by the college.

The principal of the school shall approve the advanced offering to be taken by the student in college.

The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six or nine-week intervals.

The awarding of the Carnegie units of credit will be in accordance with individual program requirements as stated in Bulletin 741.

Weegie Peabody
Executive Director

0105#029

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
CHigh School Graduation Requirements (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.901A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The first cohort of students to take the GEE 21 (2000-2001 first-time tenth graders, or the class of 2003) must pass the

English Language Arts and Mathematics portions of GEE 21 to be eligible for a standard high school diploma. The second cohort of students to take the GEE 21 (2001-2002 first-time tenth graders, or the class of 2004) must pass the English Language Arts and Mathematics portions of GEE 21, along with either the Science or Social Studies portions to be eligible for a standard high school diploma.

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

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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 27:695 (May 2001).

Standard 2.099.00

2.099.00 In addition to completing a minimum of 23 Carnegie units of credit, the student shall also be required to pass the Graduation Exit Examination (GEE), beginning with the 1991 graduating class. This requirement shall first apply to students classified as sophomores in 1988-89 and thereafter.

The English Language Arts, Writing, and Mathematics components of the GEE shall first be administered to students in the tenth grade. Beginning in spring 2001 the English Language Arts and Mathematics components of the Graduation Exit Examination for the 21st Century (GEE 21) shall first be administered to students in the tenth grade.

The Science and Social Studies components of the graduation test shall first be administered to students in the eleventh grade. Beginning in spring 2002 the Science and Social Studies components of the Graduation Exit Examination for the 21st Century (GEE 21) shall first be administered to students in the eleventh grade.

Effective for the 2000-2001 school year, in addition to completing a minimum of 23 Carnegie units of credit, first-time tenth graders must pass the English Language Arts and Mathematics portions of the test of GEE 21 to earn a standard high school diploma. Effective for the 2001-2002 school year and thereafter, in addition to completing a minimum of 23 Carnegie units of credit, first-time tenth graders must pass the English Language Arts and Mathematics portions of the test and either the Science or Social Studies portions of GEE 21 to earn a standard high school diploma.

Remediation and retake opportunities will be provided for students that do not pass the test.

Effective for incoming freshman 2000-2001, a student may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

Effective for the 2000-2001 school year, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory*

achievement level on either the English Language Arts and/or the Mathematics component(s) of the eighth grade LEAP 21 provided the student:

1. participated in a transitional program on a traditional high school campus;
2. successfully completed specially designed elective(s) for remediation;
3. scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the *Unsatisfactory* achievement level.

A student may apply a maximum of two Carnegie units of elective credit toward high school graduation by:

1. earning one elective credit through remediation for eighth grade LEAP 21 and or one elective credit through GEE 21 remediation; or
2. earning two elective credits through GEE 21 remediation.

Weegie Peabody
Executive Director

0105#030

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Policy for Louisiana's Public Education
Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, 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. The amendment more clearly explains and refines the existing policy as it pertains to Paired/Shared status of schools during the accountability cycles and the awarding of bonus points to a school's CRT Index for fourth graders who receive a score of Approaching Basic or above on LEAP 21 for which he/she was unsuccessful the previous spring.

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

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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 (June 2000), LR 27:695 (May 2001).

**Bulletin 741C Louisiana Handbook for School
Administrators C The Louisiana School and District
Accountability System**

School Performance Scores

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,			
$[(66.0 * 60\%) + (75.0 * 30\%) + (50.0 * 10\%)] = 67.1$			
<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
<i>SPS = 67.1</i>			

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.

If, during spring testing, a fourth grade 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 retaining school shall receive 50 bonus points per subject in its CRT index. A student may earn a maximum of 100 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.)

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 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 retaining 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. (No bonus points for passing parts of tests in the summer school of the year they first failed in spring testing.)

Initial Transition Years [K-8]	
To accommodate the phase-in of Social Studies and Science tests for K-8 schools, the following CRT scores shall be used for each year:	
1999 Baseline CRT Score	1999 Math & English Language Arts (Grades 4 & 8)
2001 Comparison CRT Score	2000 & 2001 Math & English Language Arts (both years averaged for each subject and each grade)
2001 New Baseline CRT Score	2000 & 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
2002 Comparison CRT Score	2000 & 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)

Scores	Studies, and Science (both years averaged for each subject and each grade)
This re-averaging shall result in a re-calculated baseline to include science and social studies for K-8 schools in 2001.	

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.

<i>NRT Goals and Equivalent Standard Scores</i>					
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	55 th	187	219	231	243
20-Year Goal	75 th	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]

- Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
- Zero shall be the lowest NRT Index score reported for accountability calculations.
- Compute the total number of index points in all grades in the school.
- 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.

<i>Attendance Goals</i>		
	10-Year Goal	10-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.

<i>Dropout Goals</i>		
	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) = $(25 * \text{NDO}) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$

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. 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, and the graduation index score.

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 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	Graduation
1	2000-01	2002-03	✓	✓		✓*	✓*	
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	✓	✓	✓	✓*	✓*	
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	✓	✓	✓	✓*	✓*	✓*

*Indicates use of prior year data for these indexes.

Formula for Calculating an SPSCAccountability 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 SPSCAccountability 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

Formula for Calculating an SPSC Accountability Cycle 3 and Beyond [9-12]

During the third and succeeding accountability cycles, 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:

$$\text{SPS} = (.25 * \text{Grade 10 CRT Index}) + (.25 * \text{Grade 11 CRT Index}) + (.20 * \text{NRT Index}) + (.20 * \text{Graduation Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

In the example,

$$[(.25 * 66.0) + (.25 * 60.0) + (.20 * 75.0) + (.20 * 110.0) + (.05 * 50.0) + (.05 * 87.5)] = 76.4$$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	25%	16.5
CRT—Grade 11	60.0	25%	16.0
NRT	75.0	20%	15.0
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
Graduation Index	110.0	20%	22.0
SPS			76.4

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

1. 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.
2. 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.
3. 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.
4. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

Example 1 CGrade 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:

$$111.1 \times (1 - .100) = 100.0$$

Example 2 CGrade 10:

- 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:

- 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:

- 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.

Graduation Index Calculations for Grades 9-12		
Beginning with the first baseline year (2003-04) of accountability cycle 3, a Graduation Index score for each high school shall be calculated. The Graduation Index shall be based on the prior year's data, including students who graduated in December, May, and during the summer.		
Graduation Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	25% (on average) of regular education students earning diploma enhancement	50% (on average) of regular education students earning diploma enhancement

The Graduation Index score equals the sum of the student totals based on points awarded for graduation-related results, divided by the number of students eligible to participate. The number of students eligible is calculated by adding the grade 12 enrollment reported on October 1 plus the number of students who dropped during the summer prior to their senior year. The number of points awarded for graduation-related results are:

Diploma	Points
Under discussion	TBD
Recovered Dropouts (those through age 21 who had dropped out of school prior to age 18 and for more than one year and who now receive some type of diploma)	Points noted above for type of diploma plus 100 points

Formula for Calculating the Graduation Index for a High School

1. Calculate the total number of points by multiplying the number of students at each graduation-related result times the number of points for those respective results.
2. Divide by the total number of students eligible (the October 1 grade 12 enrollment plus students who dropped out during the summer prior to their senior year).
3. Zero shall be the lowest Graduation Index score reported for accountability calculations.

Pairing/Sharing of Schools with Insufficient Test Data

2.006.15 In order to receive an SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this requirement must either be paired or shared with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a non-standard school.

A school with a grade-level configuration such that it participates in neither the CRT nor in the NRT (e.g., a K, K-1, K-2 school) must be paired with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This pairing means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration where students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school), must share with another school that has at least one grade level of the type of testing missing. Both schools shall share the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either paired or shared. The paired or shared school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the paired or shared school must be the school into which the largest percentage of students feed. If two schools receive an identical percentage of students from a non-standard school, the district shall select the paired or shared school.

If a school is not paired/shared at the beginning of Cycle 1, it shall not be paired/shared at the end of Cycle 1.

Beginning with Cycle 2, requirements for the number of test units shall be the sum of the test units over a two-year period (not the number of test units in one year). Beginning with Cycle 2, a school's sharing/pairing status at the beginning of the cycle shall be its status at the end of the cycle.

If a school has too few test units to be a standalone school, it may request to be considered standalone. It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units. The request shall be in writing to the Department from the LEA superintendent. The school forfeits any right to appeal its growth status based on minimum test unit counts.

Once the identification of paired or shared schools has been made, this decision is binding for 10 years. An appeal to SBESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

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0105#028

RULE

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

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

The Louisiana Student Financial Assistance Commission (LASFAC) has amended rules 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 Assistance
Higher Education Scholarship and Grant Programs
Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards**

§703. Establishing Eligibility

- A. - A.5.a.i. ...
- 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

A.5.a.iii. - G.2. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:632 (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 26:1996, 1998 (September 2000), LR 26:2268 (October 2000), LR 27:702 (May 2001).

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0105#036

RULE

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

Correct Organization Citations
Resulting from Reengineering of DEQ
(LAC 33:VII)(OS036)

Editor's Note: The following sections of OS036, which was published as a Rule on pages 2439-2608 of the November 20, 2000, *Louisiana Register*, are being republished to correct a submittal location for certain Solid Waste annual reports. The original rule listed the Office of Environmental Services, Environmental Assistance Division as the location to submit these reports. The correct location is the Office of Management and Finance, Financial Services Division. This change is being made in portions of the Solid Waste Regulations, LAC 33:VII, of rule OS036.

**Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 1. Solid Waste Regulations
Chapter 3. Scope and Mandatory Provisions of the Program**

§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following solid wastes, that are processed or disposed of in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

* * *

[See Prior Text in A - J.1]

2. the generator must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards in LAC 33:VII.1109, which reports amounts of woodwastes beneficially used at each site;

* * *

[See Prior Text in K - L]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001).

§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

* * *

[See Prior Text in A - D.1]

2. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721;

* * *

[See Prior Text in E - H.1]

2. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.721;

* * *

[See Prior Text in H.3 - I.4]

5. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report which accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.721; and

* * *

[See Prior Text in I.6 - J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2609 (November 2000), repromulgated LR 27:703 (May 2001).

**Chapter 7. Solid Waste Standards
Subchapter A. General Standards
§701. Standards Governing Industrial Solid Waste Generators**

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Management and Finance, Financial Services Division listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off site.

* * *

[See Prior Text in A.2-3]

4. The report shall be submitted to the Office of Management and Finance, Financial Services Division by August 1 of each reporting year.

* * *

[See Prior Text in A.5 - B.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), repromulgated LR 27:703 (May 2001).

Subchapter B. Landfills, Surface Impoundments, Landfarms

§ 711. Standards Governing Landfills (Type I and II)

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website at www.deq.state.la.us.

[See Prior Text in C.1.a.ii - F.3.d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001).

§ 713. Standards Governing Surface Impoundments (Type I and II)

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website at www.deq.state.la.us.

[See Prior Text in C.1.a.ii - F.2.b.iv]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001).

§ 715. Standards Governing Landfarms (Type I and II)

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us.

[See Prior Text in C.1.a.ii - F.3.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001).

Subchapter C. Solid Waste Processors

§ 717. Standards Governing All Solid Waste Processors (Type I-A and II-A)

[See Prior Text in A - F.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us. The following applies to reports:

[See Prior Text in F.1 a.ii - I.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526 (November 2000), LR 26:2610 (November 2000), repromulgated LR 27:704 (May 2001).

Subchapter D. Minor Processing and Disposal Facilities

§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)

* * *

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us.

* * *

[See Prior Text in B.1.a.ii - E.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001).

§723. Composting Facilities (Type III)

* * *

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us.

* * *

[See Prior Text in B.1.a.ii - D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001).

§725. Separation and Woodwaste Processing Facilities (Type III)

* * *

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us. The following applies to reports:

* * *

[See Prior Text in B.1.a.ii - D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001).

Chapter 11. Beneficial-Use Facilities

§1109. Standards Governing Beneficial-Use Facilities

* * *

[See Prior Text in A - F.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste beneficially used, (expressed in wet-weight tons and dry-weight tons per year), during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual reporting period shall be submitted to the administrative authority. A form for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us. The following standards apply to reports:

* * *

[See Prior Text in F.1.a.ii - H.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), repromulgated LR 27:40 (January 2001), LR 27:705 (May 2001).

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Assistant Secretary

0105#087

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Small Quantity Generator Revisions
(LAC 33:V.Chapters 1, 3, 9, 11, 13, 15, 22,
30, 38, 39, 40, 41, 43, and 49)(HW075F)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.Chapters 1, 3, 9, 11, 13, 15, 22, 30, 38, 39, 40, 41, 43, and 49 (Log #HW075F).

This Rule makes Louisiana's classification and hazardous waste management requirements for small quantity generators equivalent to federal requirements. Louisiana's past classification system for small quantity generators of hazardous waste differed from the EPA small quantity generator classification system. The differences have resulted in confusion and unnecessary paperwork, with no environmental benefit. The basis and rationale for this Rule are to be equivalent to federal regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A - D.5]

a. Except as provided in Subsection D.5.b of this Section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in LAC 33:V.109 are not subject to any requirement of LAC 33:V.Chapters 9, 11, 13, or 49, or to the notification requirements of Subsection A of this Section, nor are such samples included in the quantity determinations of LAC 33:V.108 and 1109.E.7 when:

* * *

[See Prior Text in D.5.a.i - O.2.c.vi]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001).

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

A. A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kg of hazardous waste in that month.

B. Except for those wastes identified in Subsections E, F, G, and J of this Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under the notification requirements of LAC 33:V.105.A and Chapters 3 - 37, 41, 43, and 53, except for LAC 33:V.Chapter 31.Table 1, provided the generator complies with the requirements of Subsections F, G, and J of this Section.

C. When making the quantity determinations of this Section and LAC 33:V.Chapter 11, the generator must include all hazardous waste that it generates, except hazardous waste that:

1. is exempt from regulation under LAC 33:V.105.D.3-6 and 8, 109.Empty Container.1, and 4105.B; or

2. is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in LAC 33:V.109; or

3. is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under LAC 33:V.4115.B; or

4. is used oil managed under the requirements of LAC 33:V.4105.E and Chapter 40; or

5. is spent lead-acid batteries managed under the requirements of LAC 33:V.4145; or

6. is universal waste managed under LAC 33:V.105.D.7 and Chapter 38.

D. In determining the quantity of hazardous waste generated, a generator need not include:

1. hazardous waste when it is removed from on-site storage; or
2. hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste, so long as the hazardous waste that is treated was counted once; or
3. spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

E. If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under the notification requirements of LAC 33:V.105.A and LAC 33:V.Chapters 3 - 37, 41, 43, 51, and 53:

1. a total of one kg of acute hazardous wastes listed in LAC 33:V.4901.B, C, or E; or
2. a total of 100 kg of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in LAC 33:V.4901.B, C, or E.

[Comment: *Full regulation* means those regulations applicable to generators of greater than 1,000 kg of non-acutely hazardous waste in a calendar month.]

F. In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in Subsection E.1 or 2 of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1. LAC 33:V.1103;
2. the generator may accumulate acute hazardous wastes on-site. If he accumulates at any time acute hazardous wastes in quantities greater than those set forth in Subsection E.1 or 2 of this Section, all of those accumulated wastes are subject to regulation under the applicable notification requirements of LAC 33:V.105.A and LAC 33:V.Chapters 3 - 37, 41, 43, 51, and 53. The time period of LAC 33:V.1109.E, for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit;
3. a conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the United States, is:
 - a. permitted under 40 CFR 270, LAC 33:V.Chapters 3 - 7, or a RCRA approved hazardous waste program of any other state;
 - b. in interim status under 40 CFR 270 and 265, LAC 33:V.Chapters 3 - 7 and 43, or a RCRA approved hazardous waste program of any other state;
 - c. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;
 - d. permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 CFR 258;
 - e. permitted, licensed, or registered by a state to manage nonmunicipal, nonhazardous waste and, if managed in a nonmunicipal, nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 - 257.30; or

- f. a facility which:
 - i. beneficially uses or reuses, or legitimately recycles or reclaims, its waste; or
 - ii. treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
- g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273 or LAC 33:V.Chapter 38.

G. In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kg of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1. LAC 33:V.1103;
2. the conditionally exempt small quantity generator may accumulate hazardous waste on-site. If it accumulates at any time more than a total of 1000 kg of its hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of LAC 33:V.Chapter 11 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month as well as the requirements of LAC 33:V.Chapters 3 - 9, 13 - 37, 41, 43, 51, and 53, and the applicable notification requirements of LAC 33:V.105.A. The time period of LAC 33:V.1109.E for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1000 kg; and
3. a conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the United States, is:
 - a. permitted under 40 CFR 270, LAC 33:V.Chapters 3 - 7, or a RCRA approved hazardous waste program of any other state;
 - b. in interim status under 40 CFR 270 and 265, LAC 33:V.Chapters 3 - 7 and 43, or a RCRA approved hazardous waste program of any other state;
 - c. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;
 - d. permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 CFR 258;
 - e. permitted, licensed, or registered by a state to manage nonmunicipal, nonhazardous waste and, if managed in a nonmunicipal, nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 - 257.30; or
 - f. a facility that:
 - i. beneficially uses or reuses, or legitimately recycles or reclaims, its waste; or
 - ii. treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
 - g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273, LAC 33:V.Chapter 38, or a RCRA approved hazardous waste program of any other state.

H. Hazardous waste subject to the reduced requirements of this Section may be mixed with nonhazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous waste identified in LAC 33:V.4903.

I. If any person mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.

J. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to LAC 33:V.Chapter 40 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:706 (May 2001).

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

* * *

[See Prior Text]

Empty Container^C

1. a. any hazardous waste remaining in either of the following is not subject to regulation under LAC 33:V.Chapters 1-29, 31- 38, 43, 49, or to the notification requirements of LAC 33:V.105.A:

* * *

[See Prior Text in Empty Container.1.a.i - Sludge Dryer]

Small Quantity Generator^{Ca} a generator who generates less than 1000 kg of hazardous waste in a calendar month.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000),), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§303. Overview of the Permit Program

* * *

[See Prior Text in A - E]

1. Owners and operators of existing TSD facilities must submit Part I of their permit application requirements listed in LAC 33:V.515 to the administrative authority no later than 30 days after the date they first become subject to the permitting standards set forth in LAC 33:V.Subpart 1. Generators generating greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month who treat, store, or dispose of these wastes on-site must submit a Part I RCRA permit application by March 24, 1987.

* * *

[See Prior Text in E.2 - Q]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 27:708 (May 2001).

§305. Scope of the Permit

* * *

[See Prior Text in A - C.1]

2. generators who accumulate hazardous waste in an environmentally sound manner, on-site for less than the time periods provided in LAC 33:V.1109.E;

* * *

[See Prior Text in C.3]

4. persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation under LAC 33:V.105.D or 108 (conditionally exempt small quantity generator exemption);

* * *

[See Prior Text in C.5 - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), LR 24:1690 (September 1998), LR 24:1759 (September 1998), LR:25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:708 (May 2001).

Chapter 9. Manifest System for TSD Facilities

§909. Unmanifested Waste Report

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in LAC 33:V.1307.E.2, and if the waste is not excluded from the manifest requirements by LAC 33:V.108, then the owner or operator must prepare and

submit a single copy of a report to the administrative authority within 15 days after receiving the waste. The unmanifested waste report must be submitted to the Office of Environmental Services, Environmental Assistance Division. Such report must be designated "Unmanifested Waste Report" and include the following information:

* * *

[See Prior Text in A - G]

[Comment: Small quantities of hazardous waste are excluded from regulation under LAC 33:V.Chapters 9, 15 -21, 23 - 29, and 31 - 37 and do not require a manifest. Where a facility receives unmanifested hazardous wastes, the department suggests that the owner or operator obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, the department suggests that the owner or operator file an unmanifested waste report for the hazardous waste movement.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000), LR 27:708 (May 2001).

Chapter 11. Generators

§1101. Applicability

* * *

[See Prior Text in A - H]

I. LAC 33:V.108.C and D must be used to determine the applicability of provisions of this Chapter that are dependent on calculations of the quantity of hazardous waste generated per month.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:660 (April 1998), LR 24:1106 (June 1998), LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:709 (May 2001).

§1107. The Manifest System

* * *

[See Prior Text in A - A.3]

4. The requirements of this Section do not apply to hazardous waste produced by generators of greater than 100 kg, but less than 1000 kg, in a calendar month where:

a. the waste is reclaimed under a contractual agreement pursuant to which:

i. the type of waste and frequency of shipments are specified in the agreement;

ii. the vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

b. the generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

* * *

[See Prior Text in A.5 - D.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001).

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.6]

7. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

* * *

[See Prior Text in E.7.a]

b. the generator complies with the requirements of LAC 33:V.4438;

c. the generator complies with the requirements of LAC 33:V.1109.E.1.c and d; the requirements of LAC 33:V.Chapter 43.Subchapter B; and the requirements of LAC 33:V.2245.E;

* * *

[See Prior Text in E.7.d - d.iv.(c)(v)]

e. the quantity of waste accumulated on-site never exceeds 6000 kg.

8. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month and who must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that the generator complies with the requirements of Subsection E.7 of this Section.

9. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if the generator must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of LAC 33:V.Chapters 9, 15 - 21, 23 - 29, 31 - 37, 43, and 51 and the permit requirements of LAC 33:V.Chapters 3 - 7 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by the administrative authority if hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the administrative authority on a case-by-case basis.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709 (May 2001).

1111. Recordkeeping and Reporting

[See Prior Text in A - B.2]

C. Exception Reporting

1. A generator of greater than 1000 kg of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

2. A generator of greater than 1000 kg of hazardous waste in a calendar month must submit an Exception Report to the Office of Environmental Services, Environmental Assistance Division if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

[See Prior Text in C.2.a -b]

3. A generator of greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Office of Environmental Services, Environmental Assistance Division.

NOTE: The submission to the administrative authority need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

[See Prior Text in D]

E. Special Requirements for Generators of Between 100 and 1000 kg/month. A generator of greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month is subject only to the following requirements in this Section:

1. Subsection A.1, 3, and 4 of this Section, recordkeeping;

2. Subsection C.3 of this Section, exception reporting; and

3. Subsection D of this Section, additional reporting.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:365 (April 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:710 (May 2001).

§1113. Exports of Hazardous Waste

[See Prior Text in A - G.1.d]

e. except for hazardous waste produced by exporters of greater than 100 kg, but less than 1000 kg, in a calendar month, unless provided in accordance with LAC 33:V.1111.B in even numbered years:

[See Prior Text in G.1.e.i - f]

2. Reports shall be sent to the administrative authority of the Louisiana Department of Environmental Quality.

[NOTE: This does not relieve the regulated community from the requirement of submitting annual reports in accordance with 40 CFR 262.56 to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A) Environmental Protection Agency, 1200 Pennsylvania Ave, Washington, DC 20460.]

[See Prior Text in H - I.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:710 (May 2001).

Chapter 13. Transporters

§1307. The Manifest System

[See Prior Text in A - G.4]

H. A transporter transporting hazardous waste from a generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month need not comply with the requirements of this Section or those of LAC 33:V.1311 provided that:

1. the waste is being transported in accordance with a reclamation agreement as provided for in LAC 33:V.1107.A.4;

2. the transporter records, on a log or shipping paper, the following information for each shipment:

i. the name, address, and EPA identification number of the generator of the waste;

ii. the quantity of waste accepted;

iii. all DOT-required shipping information; and

iv. the date the waste is accepted;

3. the transporter carries this record when transporting waste to the reclamation facility; and

4. the transporter retains these records for a period of at least three years after termination or expiration of the agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:710 (May 2001).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A - C]

1. the owner or operator of a facility permitted, licensed, or registered to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation by LAC 33:V.108;

* * *

[See Prior Text in C.2 - H.13]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694 (September 1998), LR 24:1759 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:277 (February 2000), LR 27:711 (May 2001).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A - I.3]

4. waste generated by small quantity generators of less than 100 kg of nonacute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in LAC 33:V.108;

* * *

[See Prior Text in I.5 - 5.e]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:1724 (September 1998), LR 24:1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 27:711 (May 2001).

§2205. Storage of Prohibited Wastes

* * *

[See Prior Text in A]

1. A generator may store such wastes in tanks, containers, or containment buildings on-site solely for the

purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements of LAC 33:V.1109.E, Chapters 9, 15, 17, 18, 19, 21, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 43, and 51.

* * *

[See Prior Text in A.2 - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:280 (February 2000), LR 27:711 (May 2001).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A - F]

G If a generator determines that he is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or exempted from regulation under LAC 33:V.Chapter 1 or 41 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified in LAC 33:V.105.D.1.b, or that are CWA-equivalent, or are managed in an underground injection well regulated by the Solid Disposal Waste Act, SDWA), the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from the regulation under LAC 33:V.Subpart 1, and the disposition of the waste, in the facility's on-site file.

H. Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced in accordance with this Section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrative authority. The requirements of this Paragraph apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under LAC 33:V.Chapter 1 or 41, or exempted from regulation under LAC 33:V.Subpart 1, subsequent to the point of generation.

* * *

[See Prior Text in I - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998), LR 25:447

(March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), LR 27:295 (March 2001), LR 27:711 (May 2001).

Subchapter B. Hazardous Waste Injection Restrictions

§2249. Purpose, Scope, and Applicability

[See Prior Text in A - C.2]

3. if the waste is generated by a conditionally exempt small quantity generator, as defined in LAC 33:V.108.

[See Prior Text in D - D.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999), LR 27:712 (May 2001).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

[See Prior Text in A - C.2]

3. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and 4105.B.10-12, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under LAC 33:V.108; and

[See Prior Text in C.4 - H.Note]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821 (September 1996), LR 22:835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:1466 (August 1999), LR 27:297 (March 2001), LR 27:712 (May 2001).

§3017. Small Quantity On-Site Burner Exemption

[See Prior Text in A - A.4]

B. Mixing with Nonhazardous Fuels. If hazardous waste fuel is mixed with a nonhazardous fuel, the quantity of hazardous waste before such mixing is used to comply with Subsection A.1 of this Section.

C. Multiple Stacks. If an owner or operator burns hazardous waste in more than one on-site boiler or industrial furnace exempt under this Section, the quantity limits provided by Subsection A.1 of this Section are implemented according to the following equation:

$$\sum_{i=1}^n \frac{\text{Actual Quantity Burned}_{(i)}}{\text{Allowable Quantity Burned}_{(i)}} \leq 1.0$$

where:

n = the number of stacks;

Actual Quantity Burned = the waste quantity burned per month in device "i";

Allowable Quantity Burned = the maximum allowable exempt quantity for stack "i" from the table in LAC 33:V.3017.A.1.

NOTE: Hazardous wastes that are subject to the special requirements for small quantity generators under LAC 33:V.108 may be burned in an off-site device under the exemption provided by LAC 33:V.3017, but must be included in the quantity determination for the exemption.

[See Prior Text in D - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001).

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries, pesticides, thermostats, lamps, and antifreeze as described in LAC 33:V.3813. This Chapter provides an alternative set of management standards in lieu of regulations under LAC 33:V.Subpart 1.

[See Prior Text in B]

C. Conditionally exempt small quantity generator wastes that are regulated under LAC 33:V.108 and are also of the same type as the universal wastes defined in LAC 33:V.3813 may, at the generator's option, manage these wastes under the requirements of this Chapter.

D. Persons who commingle the wastes described in Subsections B and C of this Section, together with universal waste regulated under this Chapter, must manage the commingled waste under the requirements of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998), LR 24:1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001).

Chapter 39. Reserved

§3901. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 20:1109 (October 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001).

§3903. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), repromulgated LR 18:1256 (November 1992), amended LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), repealed LR 27:712 (May 2001).

§3907. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), repealed LR 27:713 (May 2001).

§3911. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 20:1109 (October 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001).

§3913. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001).

§3915. Repealed

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 16:220 (March 1990), repromulgated LR 18:1256 (November 1992), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1497 (August 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), repealed LR 27:713 (May 2001).

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials which are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

[See Prior Text in A - B.2.c]

3. Conditionally Exempt Small Quantity Generator Hazardous Waste. Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under LAC 33:V.108 are subject to regulation as used oil under this Chapter.

[See Prior Text in C - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:828 (September 1996), LR 22:836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 25:481 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulations as follows:

[See Prior Text in A - B.6]

7. Reserved

[See Prior Text in B.8 - 10]

11. oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under LAC 33:V.4005.

[See Prior Text in C - F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), LR 24:1108 (June 1998), LR 24:1742 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001).

Chapter 43. Interim Status

§4301. Purpose and Applicability

[See Prior Text in A - D]

E. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in LAC 33:V.Chapter 22, and Chapter 22 standards are material conditions or requirements of the LAC 33:V.Chapter 43 interim status standards.

[See Prior Text in F - I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), LR 25:1466 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), LR 27:713 (May 2001).

§4313. General Waste Analysis

* * *

[See Prior Text in A]

B. The analysis may include data developed under LAC 33:V.Chapters 1, 31, 41, 49 and existing published or documented data about the hazardous waste or about waste generated from similar processes.

* * *

[See Prior Text in Comment- F.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:714 (May 2001).

Subchapter I. Tanks

§4438. Special Requirements For Generators of Between 100 and 1,000 kg/month That Accumulate Hazardous Waste in Tanks

A. The requirements of this Section apply to small quantity generators of more than 100 kg, but less than 1,000 kg, of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and do not accumulate over 6,000 kg on-site at any time.

B. Generators of between 100 and 1,000 kg/month hazardous waste must comply with the following general operating requirements:

1. treatment or storage of hazardous waste in tanks must comply with LAC 33:V.4321.B;
2. hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life;
3. uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank; and
4. where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

[NOTE: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.)]

C. Generators of between 100 and 1,000 kg/month accumulating hazardous waste in tanks must inspect, where present:

1. discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day to ensure that it is in good working order;

2. data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

3. the level of waste in the tank at least once each operating day to ensure compliance with Subsection B.3 of this Section;

4. the construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

5. the construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

[NOTE: As required by LAC 33:V.4317.C, the owner or operator must remedy any deterioration or malfunction he finds.]

D. Generators of between 100 and 1,000 kg/month accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures.

NOTE: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with LAC 33:V.109.Hazardous Waste.4 or 5, that any solid waste removed from the tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of LAC 33:V.Chapters 11, 13, and 43.

E. Generators of between 100 and 1,000 kg/month must comply with the following special requirements for ignitable or reactive waste:

1. ignitable or reactive waste must not be placed in a tank, unless:

- a. the waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under LAC 33:V.4903.B or D, and LAC 33:V.4321.B is complied with; or

- b. the waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

- c. the tank is used solely for emergencies.

2. the owner or operator of a facility that treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 - 2-6 of the National Fire Protection Association's *Flammable and Combustible Liquids Code*, (1977 or 1981) (incorporated by reference, see LAC 33:V.110).

F. Generators of between 100 and 1,000 kg/month must comply with the following special requirements for incompatible wastes:

1. incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless LAC 33:V.4321.B is complied with; and

2. hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless LAC 33:V.4321.B is complied with.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:714 (May 2001).

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

* * *

[See Prior Text in A - Comment]

Hazard codes are defined as follows for the listed hazardous wastes.

Ignitable waste	(I)
Corrosive waste	(C)
Reactive waste	(R)
Toxicity Characteristic waste	(E)
Acute hazardous waste or acutely hazardous waste	(H)
Toxic waste	(T)

1. Each hazardous waste listed in this Chapter is assigned an EPA Hazardous Waste number, which precedes the name of the waste. This number must be used in complying with the notification requirements of Section 3010 or 105.A of the act and certain recordkeeping and reporting requirements under LAC 33:V.Chapters 3-29, 31-38, and 43.

2. The following hazardous wastes listed in LAC 33:V.4901.B and C are subject to the exclusion limits for acutely hazardous wastes established in LAC 33:V.108: EPA Hazardous Wastes Numbers F020, F021, F022, F023, F026, and F027.

* * *

[See Prior Text in B - D.4.Comment]

E. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in LAC 33:V.4901.D.1-4 are identified as acute hazardous wastes (H) and are subject to the small quantity exclusions defined in LAC 33:V.108.E. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 3.

[See Prior Text in E.Comment- Table 3.Note 1]

F. Commercial chemical products or manufacturing chemical intermediates or off-specification commercial chemical products referred to in LAC 33:V.4901.D.1-4 are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.108.A and G. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4.

[Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability), and C (Corrosivity). Absence of a letter indicates that the compound is listed only for toxicity.]

* * *

[See Prior Text in Table 4- G.Table 6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR

18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001).

§4907. Criteria for Listing Hazardous Waste

* * *

[See Prior Text in A - B]

C. the administrative authority shall use the criteria for listing specified in this Chapter to establish the exclusion limits referred to in LAC 33:V.108.C.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:478 (May 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:715 (May 2001).

James H. Brent, Ph.D.
Assistant Secretary

0105#085

RULE

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

Small Quantity Generator Revisions
(LAC 33:V.108, 1109, and 5137)(HW075L)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.Chapters 1, 11, and 51 (Log #HW075L).

Rule HW075F, which is being promulgated concurrent with this rule (HW075L), changes the categories of hazardous waste generators to be equivalent to the federal regulations and also makes other revisions to the regulations to make them equivalent to the federal regulations. This rule, HW075L, reinstates the existing requirements that conditionally exempt small quantity generators (presently Louisiana small quantity generators) notify as generators of hazardous waste and pay a \$50 annual fee. The Administrative Procedure Act requires that the department adopt federal language separately from non-federal language. This rule, HW075L, will reinstate language that would be lost if the department were to adopt the federally-equivalent language in HW075F without this companion rule. Preserving existing language will ensure that the department continues to be notified of the activity of all hazardous waste generators and can, thus, continue to effectively ensure that wastes are being handled in a manner that is protective of human health and the environment. The basis and rationale for this rule are to ensure that the existing hazardous waste program will not be compromised due to the changes in the HW075F package. This rule will allow

the agency to continue to receive the notification forms and fees for hazardous waste activity within the state.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 1. General Provisions and Definitions

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

* * *

[See New Text in F Package in A]

B. Except for those wastes identified in Subsections E, F, G, and J of this Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under Chapters 3 - 37, 41, 43, and 53, except for LAC 33:V.Chapter 31.Table 1, provided the generator complies with the requirements of Subsections F, G, and J of this Section.

* * *

[See New Text in F Package in C - F.3.f.ii]

g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273 or LAC 33:V.Chapter 38;

4. notify the department in accordance with LAC 33:V.105.A; and

5. any and all fees required to be paid by conditionally exempt small quantity generators in accordance with LAC 33:V.5137 must be paid.

* * *

[See New Text in F Package in G - G.3.f.ii]

g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273 or LAC 33:V.Chapter 38;

4. notify the department in accordance with LAC 33:V.105.A; and

5. any and all fees required to be paid by conditionally exempt small quantity generators in accordance with LAC 33:V.5137 must be paid.

* * *

[See New Text in F Package in H - J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001), amended LR 27:716 (May 2001).

Chapter 11. Generators

§1109. Pre-Transport Requirements

* * *

[See Amended Text in F Package in A - E.7.d.iv.(c).(v)]

e. the quantity of waste accumulated on-site never exceeds 6000 kg;

f. any and all fees required to be paid by generators must be paid.

* * *

[See New Text in F Package in E.8 - 9]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:716 (May 2001).

Chapter 51. Fee Schedules

§5137. Conditionally Exempt Small Quantity Generator Fee

A. Conditionally exempt small quantity generators (see LAC 33:V.108) shall pay a fee of \$50 per year to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001).

James H. Brent, Ph.D.
Assistant Secretary

0105#086

RULE

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

EPO Plan of Benefits
Emergency Room
Deductible
Non-EPO Facility
(LAC 32:V.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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the EPO Plan Document to increase the emergency room deductible applicable to services at a non-EPO facility. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents,

which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

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

	PPO/non-participating provider	EPO
Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person ...		
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person ...		

1. Deductibles

Inpatient deductible per day, maximum of 5 days per Admission (waived for admissions at PPO hospitals) ...

Emergency room charges for each visit unless The Covered person is hospitalized immediately Following emergency room treatment (prior to And in addition to Calendar Year deductible)

\$150 0

Professional and other eligible expenses, Employees and Dependents of Employees, Per person, per Calendar Year ...

Professional and other eligible expenses, Retirees and Dependents of Retirees, Per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)

2. - 4. ...

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, amended LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#041

RULE

**Office of the Governor
Division of Administration
Board of the Trustees of the**

State Employees Group Benefits Program

EPO Plan of Benefits C Glucometers
(LAC 32:V.317 and 325)

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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the EPO Plan Document to exclude coverage of glucometers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this plan for:

1. - 40. ...

41. Glucometers.

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 25:1813 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001).

§325. Prescription Drug Benefits

A. ...

B. The following drugs, medicines, and related services are not covered:

1. - 11. ...

12. Glucometers.

C. ...

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 27:717 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#071

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

EPO Plan of Benefits CNew Employees CPre-Existing
Condition Limitation (LAC 32:V.101)

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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the EPO Plan Document to implement a pre-existing condition limitation for new employees. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

Eligibility requirements apply to all participants in the Program, whether in the PPO Plan, the EPO Plan or an HMO plan.

A. Employee Coverage

1. - 7. ...

8. Pre-Existing Condition (PEC) CNew Employees (on and after July 1, 2001)

a. The terms of the following paragraphs apply to all eligible employees whose employment with a participant employer commences on or after July 1, 2001, and to the dependents of such employees.

b. The program may require that such applicants complete a "Statement of Physical Condition" and an "Acknowledgement of Pre-existing Condition" form.

c. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under the plan will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of coverage. The provisions of this section do not apply to pregnancy.

d. If the covered person was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), credit will be given for previous coverage that occurred without a break of 63 days or more for the duration of prior coverage against the initial 12-month period. Any coverage occurring

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prior to a break in coverage 63 days or more will not be credited against a pre-existing condition exclusion period.

B. - H. ...

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 25:1804 (October 1999), LR 27:718 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#072

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

EPO Plan of Benefits CPrescription Drug Benefits
(LAC 32:V.325, 601, 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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the EPO Plan Document relative to prescription drug benefits. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

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 \$50 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

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.

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), LR 27:718 (May 2001).

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

A. ...

1. - 3. ...

4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50% of drug costs at point of purchase
Maximum co-payment	\$50 per prescription dispensed
Non-network pharmacy	Plan pays balance of Eligible Expense
In-state	Member pays full drug costs at point of purchase
Out-of-state	Reimbursement limited to 50% of amount payable by Plan at Network Pharmacy
	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), LR 26:487 (March 2000), LR 27:719 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#073

RULE

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

PPO Plan of Benefits C Annual Deductible (LAC 32:III.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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the PPO Plan Document to increase the annual deductible for employees and dependents of employees. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. ...

1. Deductibles

Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO Hospitals) ...

Emergency room charges for each visit unless the Covered Person is hospitalized immediately following emergency room Treatment (prior to and in addition to Calendar Year deductible) ...

Professional and other eligible expenses, Employees and Dependents of Employees, \$ 500
Per person, per Calendar Year

Professional and other eligible expenses, Retirees and Dependents of Retirees, Per person, per Calendar Year \$ 300

Family Unit maximum (3 individual deductibles)

2. - 4. ...

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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:719 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#074

RULE

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

PPO Plan of Benefits C Emergency Room Deductible
(LAC 32:III.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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the PPO Plan Document to increase the emergency room deductible. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. ...

1. Deductibles

Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO Hospitals) ...

Emergency room charges for each visit unless the Covered Person is hospitalized immediately following emergency room treatment (prior to and in addition to Calendar Year deductible) \$150

Professional and other eligible expenses, Employees and Dependents of Employees, per person, per Calendar Year ...

Professional and other eligible expenses, Retirees and Dependents of Retirees, per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)

2. - 4. ...

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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:720 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#075

RULE

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

PPO Plan of Benefits C Glucometers
(LAC 32:III.317 and 323)

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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the PPO Plan Document to exclude coverage for glucometers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board has amended the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this Plan for:

1. - 40. ...

41. Glucometers.

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 25:1834 (October 1999), LR 26:488 (March 2000), LR 27:720 (May 2001)

§323. Prescription Drug Benefits

A. ...

B. The following drugs, medicines, and related services are not covered:

1.-11. ...

12. Glucometers.

C. ...

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 25:1835 (October 1999), LR 27:720 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#076

RULE

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

PPO Plan of Benefits CNew Employees CPre-Existing
Condition Limitation (LAC 32:III.101)

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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the PPO Plan Document to implement a pre-existing condition limitation for new employees. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board has amended the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

Eligibility requirements apply to all participants in the program, whether in the PPO Plan, the EPO Plan or an HMO plan.

A. Employee Coverage

1. - 7. ...

8. Pre-Existing Condition (PEC)CNew Employees (on and after July 1, 2001)

a. The terms of the following paragraphs apply to all eligible employees whose employment with a participant employer commences on or after July 1, 2001, and to the dependents of such employees.

b. The program may require that such applicants complete a "Statement of Physical Condition" and an "Acknowledgement of Pre-existing Condition" form.

c. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under the plan will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of coverage. The provisions of this section do not apply to pregnancy.

d. If the covered person was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), credit will be given for previous coverage that occurred without a break of 63 days or more for the duration of prior coverage against the initial 12-month period. Any coverage occurring

prior to a break in coverage 63 days or more will not be credited against a pre-existing condition exclusion period.

B. - H. ...

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 25:1825 (October 1999), LR 27:721 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#077

RULE

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

PPO Plan of Benefits CPrescription Drug Benefits
(LAC 32:III.323, 601, 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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the PPO Plan Document relative to prescription drug benefits. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board has amended the following Rule to become effective July 1, 2001.

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 \$50 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

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.

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 25:1835 (October 1999), LR 27:721 (May 2001).

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. ...

1. - 3. ...

4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50% of drug costs at point of purchase
Maximum co-payment	\$50 per prescription dispensed
Non-network pharmacy	Plan pays balance of Eligible Expense
In-state	Member pays full drug costs at point of purchase
Out-of-state	Reimbursement limited to 50% of amount payable by Plan at Network Pharmacy
	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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:722 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#078

RULE

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

PPO Plan of Benefits C Stop Loss Threshold
(LAC 32:III.321 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. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board has amended provisions of the PPO Plan Document relative to the stop loss threshold. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board has amended the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§321. Preferred Provider Program

A. ...

1. If a Covered Person obtains medical services or Hospital services from an eligible provider who has agreed to provide the services at a mutually agreed upon discount from the maximum medical Fee Schedule or at a per diem or discounted rate from a Hospital, the Program will pay, following satisfaction of all applicable deductibles, 90 percent of the first \$10,000 of eligible expenses and 100 percent of eligible expenses, except prescription drugs, in excess of \$10,000 for the remainder of the Calendar Year subject to the maximum amount as specified in the Schedule of Benefits.

2. ...

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 25:1835 (October 1999), LR 27:722 (May 2001).

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. ...

1. ...

2. Percentage Payable after Satisfaction of Applicable Deductibles

Eligible expenses incurred at a PPO	90% of negotiated rate
Eligible expenses incurred at a non-PPO when one is available in the PPO Region	50%
Eligible expenses incurred at a non-PPO when not available at a PPO or out of state	80%
Eligible expenses incurred when Medicare or other group health plan is primary, and after Medicare reduction	80%
Eligible expenses in excess of \$10,000 per Calendar Year per person	100%

3. - 4. ...

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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:723 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#079

RULE

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Reciprocity (LAC 46:LXIII.201)

In accordance with R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted the following rule related to the licensure of psychologists through reciprocity.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 2. Reciprocity

§201. Licensure of Psychologists through Reciprocity

A. Upon application thereof, accompanied by such fee as determined by the board, the board shall issue a license to any person who furnishes, upon a form and in such manner as the board prescribes, evidence satisfactory to the board that:

1. he/she meets all of the following:

a. is licensed as a psychologist by another member jurisdiction of the Association of State and Provincial Psychology Boards (ASPPB) if the requirements for such licensure in that jurisdiction are the substantial equivalent of those required by Chapter 3 of the LAC, and if that jurisdiction has entered into a similar agreement with this board providing for the licensure of Louisiana psychologists in that jurisdiction by reciprocity; and

b. has met the requirements of such board including five years of satisfactory professional licensed experience in psychology; and

c. has successfully passed written and oral examinations administered by such board; and

d. his/her doctoral program involved at least one continuous academic year of full-time residency on the campus of the institution at which the degree was granted; and

e. he/she has not been subject to any disciplinary action by a professional board, and does not have any pending complaints against him/her; or

2. he/she is a psychologist licensed in another state or territory of the U.S. or a Canadian province who has met the requirements for and holds a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB).

B. Applicants for reciprocal licensing must pass the Louisiana Jurisprudence Examination prior to the issuance of a Louisiana license, and the Louisiana board may require a meeting with the applicant to review and verify his/her satisfactory character, current fitness, plans to practice, and specialty declaration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 27:723 (May 2001).

John A. Brun, Ph.D.
Chairman

0105#031

RULE

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

Advanced Practice Registered Nurses
(LAC 46:XLVII.Chapter 45)

In accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et seq., the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919 has amended the Professional and Occupational Standards pertaining to Advanced Practice Registered Nurses. The Rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4503. Titles

A. A nurse licensed as an Advanced Practice Registered Nurses (APRN) shall include, but not be limited to, the following functional roles:

1. certified nurse midwife (CNM) as defined in the R.S. 37:913(1)(a);

2. certified registered nurse anesthetist (CRNA) as defined in the R.S. 37:913(1)(b);

3. clinical nurse specialist (CNS) as defined in the R.S.37:913 (1)(c);

4. nurse practitioner (NP) as defined in the R.S. 37:913(1)(d);

5. registered nurse anesthetist (RNA) as provided for in R.S.37:930.B.

B. A licensed Advanced Practice Registered Nurse must use the title RN unless the certification title includes RN, i.e. CRNA. APRN may be used. The category of certification

and/or education designation may be used before or after RN as follows:

1. Certification
 - a. CNM: Certified Nurse Midwife
 - b. CRNA: Certified Registered Nurse Anesthetist
 - c. CNS: Clinical Nurse Specialist plus area of specialty, i.e. CNS, Medical/Surgical
 - d. NP: Nurse Practitioner plus area of specialty, i.e. FNP for Family Nurse Practitioner

2. Education
 - a. MSN, MN, MS or other appropriate degree at the masters level
 - b. DNS, EdD, PhD, or other appropriate degree at the doctorate level

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:723 (May 2001).

§4505. Definitions

Advanced Practice CertificationCcertification by a nationally recognized certifying body approved by the board.

Advanced Practice Nursing SpecialtyCa designated area of advanced practice in which the registered nurse holds a graduate degree with experience in the area of practice that includes advanced nursing theory; substantial knowledge of physical and psychosocial assessment; appropriate interventions and management of health care status; e.g. family, pediatric, anesthesia, women's health.

Functional RoleCthe advanced practice role for which a master's in nursing program prepares its graduates. The categories of functional roles for advanced practice licensure include nurse midwives, nurse anesthetists, clinical nurse specialists, and nurse practitioners.

Lapsed APRN LicenseCinactive APRN licensure status due to failure to renew or to request inactive licensure status.

Under the Direction of an Approved PreceptorCguidance by a licensed APRN, physician, dentist or person approved by the board within the same or related practice specialty or functional role must be accessible but not physically present.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 27:724 (May 2001).

§4507. Licensure as Advanced Practice Registered Nurse

- A. - A.1.a. ...
 - b. completion of a minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and/or functional role or completion of a post master's concentration in the respective advanced practice nursing specialty and/or functional role from an accredited college or university that meets the curriculum guidelines established by the board. Exception to the master's degree will be granted to those applicants who provide documentation as requested by the board that, prior to December 31, 1995, the applicant completed or was continuously enrolled in a formalized post-basic education

program preparing for the advanced practice nursing specialty and/or functional role as approved by the board prior to December 31, 1995 as follows:

- i. a program of studies offered through an institution of higher education which qualifies the graduate to take a certification examination in the advanced practice specialty and/or functional role; or
- ii. ...
- iii. a program, which is individually recognized by the Board of Nursing based on established criteria as stated in LAC 46:XLVII.4509.
- c. ...
- d. submission of evidence of current certification in the respective advanced practice nursing specialty and/or functional role by a nationally recognized certifying body approved by the board. When specialty and/or functional role certification is not available, in addition to meeting the above requirements, the individual will be required to meet the commensurate requirements specified below in Paragraph 2.
- e. ...
- f. after initial licensure, applicants seeking licensure for advanced practice in an additional specialty/role shall meet the requirements stated in LAC 46:XLVII.4507.A.1.a-d.

2. Commensurate Requirements When Certification is Not Available

- a. Holds the minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and/or functional role from a regionally accredited college or university or a program otherwise approved by the board and has practiced with a APRN temporary permit for a minimum of 6 months to a maximum of 24 months, and
- b. Have provided a minimum of 800 hours of patient care under the direction of an approved preceptor within the past 24 months; up to 400 of these may be earned through clinical practicum in a masters program; and
- c. Submit an affidavit for waiver of Certification Examination on a form provided by the board.

3. An APRN license shall be issued with an expiration date that coincides with the applicant's RN license.

B. Temporary Permit: Initial Applicants

1. An APRN applicant who possesses a current RN license or a valid RN temporary permit, may be granted a temporary permit which allows the applicant to practice under the guidance of a licensed APRN, physician, dentist or approved preceptor within the practice specialty and/or functional role of the applicant, except as provided for in R.S. 37:930.A.3:

- a. in the process of applying for initial licensure under LAC 46:XLVII.4507.A.; and
- b. has been accepted as a first-time candidate for the national professional certification examination; or
- c. in the process of meeting the practice eligibility requirements for the national professional certification examination for the advanced nursing practice specialty and/or functional role as recognized by the board; or

d. in the process of meeting the practice requirements for licensure by commensurate requirements; or

e. is awaiting certification results based upon initial application; and

f. ...

2. ...

3. Upon receipt of initial certification examination results:

a. the temporary permit shall expire;

b. applicant shall submit or cause to be submitted, a copy of the results to the board;

c. unsuccessful candidates shall:

i. cease to practice as an APRN applicant (does not prohibit practice as a registered nurse);

ii. return the temporary permit to the board;

iii. notify the employer of the results.

4. Upon completion of the commensurate requirements or at the end of two years, the temporary permit shall expire.

5. An advanced practice registered nurse seeking licensure in either an additional advanced practice nursing category or area of specialization, may seek a temporary permit as stated in LAC 46:XLVII.4507.B and D.

6. The APRN temporary permit may be extended until receipt of initial certification results.

C.1.a. - e. ...

f. verification of educational requirements as stated in LAC 46:XLVII.4507.A.1.b;

g. verification of current national certification in the respective specialty and/or functional role area as recognized by the board; or meets commensurate requirements as specified in LAC 46:XLVII.4507.A.2;

h. documentation of meeting the requirements in LAC 46:XLVII.4515.

2. ...

a. ...

b. information regarding the applicant's qualifications for advanced practice directly from the board in the state where the applicant was last employed in the APRN category.

3. If the applicant is applying from a jurisdiction that does not verify advanced practice or does not meet the endorsement requirements, the applicant shall qualify by meeting the requirements for initial APRN licensure, LAC 46:XLVII.4507.A and B.

D. ...

1. A nurse seeking APRN licensure by endorsement, and has been issued a RN temporary permit, may be issued a temporary permit to practice as an APRN for a maximum of 90 days if the applicant submits:

a. ...

b. the required nonrefundable fee as set forth in LAC 46:XLVII.3361.A.2; 3341;

c. evidence of meeting the educational and certification requirements specified in LAC 46:XLVII.4507.A.1.b and d; or

d. documentation of registration for the certifying examination within 90 days.

2. The APRN temporary permit may be extended until receipt of initial certification results.

E. Renewal of Licenses by Certification, Commensurate Requirements, or Grandfathering

1. The date for renewal of licensure to practice as an APRN shall coincide with renewal of the applicant's RN license. Renewal of the APRN license is contingent upon renewal of the RN license and verification that there are no grounds for disciplinary proceedings as stated in R.S. 37:921. An applicant for renewal of an APRN license shall submit to the board:

a. ...

b. evidence of current certification/recertification, unless the APRN has been licensed by the board in accordance with R.S. 37:912.B.(3)(4); or in accordance with commensurate requirements when certification is not available (R.S. 37:920.A.2). Effective January 1, 2002, and required for relicensure in 2003, APRNs licensed by the board in accordance with commensurate requirements when certification is not available (R.S. 37:920.A.2.) shall comply with the requirements specified in §4507.E.2. below;

c. the licensure renewal fee as specified in LAC 46:XLVII.3341.

2. APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) (grand-fathered) and are not in advanced practice certified, or R.S. 37:920.A.(2) and LAC 46:XLVII.4507.A.2 whose category and area of specialization does not provide for certification/recertification (commensurate requirements) shall submit the following documentation for renewal, in addition to meeting the requirements specified above in E.1.a.-c.

a. A minimum of 300 hours of practice in advanced practice registered nursing as defined in R.S. 37:913.3.a within a 12-month period; and

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

c. a minimum of 30 continuing education (C.E.) contact hours approved by the board each year. Of the 30 contact hours, a maximum of 10 C.E. contact hours may be approved Continuing Medical Education (CME's).

d. The above Subparagraphs b or c will meet the C.E. Requirements for the registered nurse and the advanced practice registered nurse licensure renewal.

F. Reinstatement of an APRN License

1. Reinstatement of an APRN license, which has lapsed or been inactive for less than four years. An APRN who has failed to renew his/her license, or has had an inactive licensure status less than four years, may apply for reinstatement by submitting to the board:

a. evidence of current RN licensure;

b. completed application on a form furnished by the board;

c. evidence of current certification/recertification by a national certifying body accepted by the board; or APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) or 920.A(2) and 4507.A.2 whose specialty and/or functional role does not provide for certification/recertification shall submit the following documentation with the application for reinstatement as specified in E.2.b. or c. for each year of inactive or lapsed status;

d. the required fee as specified in LAC 46:LVII.3341.

2. Reinstatement of an APRN license, which has lapsed or been inactive four years or more. If the applicant's APRN license has been lapsed or inactive for four or more

years, in addition to meeting the above requirements in §4507.F.1.a-d., the applicant shall:

- a. apply for a six-month temporary permit; and
- b. practice under the temporary permit and current practice standards set forth by the respective advanced practice nursing specialty and/or functional role; and
- c. if seeking certification/recertification successfully complete the number of clinical practice hours required by the national certifying body approved by the board, under the guidance of a preceptor approved by the board; and
- d. submit evidence of current certification by a national certifying body approved by the board; or
- e. have a minimum of 800 hours of clinical practice in the area of clinical specialization when specialty certification is not available; and
- f. submit evidence of compliance with §4507.E.2.b. or c. for each year of inactive or lapsed status; and
- g. cause to have submitted a final evaluation by the approved preceptor verifying successful completion of six months of full time practice or the equivalent hours in the area of specialization (minimum of 800 hours).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended LR 27:724 (May 2001).

§4509. Educational Requirements

A. An advanced practice registered nurse student means any licensed registered nurse enrolled as a student in an educational program, which prepares the individual for APRN licensure. The program must meet the board's criteria for advanced practice educational programs. All nursing education programs and courses in the state of Louisiana preparing persons for licensure and registration to practice shall be approved by the Louisiana State Board of Nursing. The authority of the board is contained in Section 918 Duties of the board, 1, 2, 3, 12, of the Louisiana Revised Statutes, Title 37, Chapter 11, Nurses, Part 1, Registered Nurses, Section 911-933, 1995, as amended through 1996. R.S. 37:911 et seq. as re-enacted and amended.

1. Approval of Advanced Practice Registered Nurse Programs. An educational program accredited by a regional accrediting body and/or a national professional accrediting body recognized by the U.S. Department of Education and whose standards comply with the following requirements shall be approved by the board. The board has the authority to delegate to the board's staff the approval of advanced practice registered nurse programs which meet the following criteria.

a. The educational program shall be an academic unit of a regionally accredited college or university which offers a graduate degree with a major in nursing or a graduate degree with a concentration in the advanced practice registered nurse category as defined in R.S.37:913.(1).

b. Advanced practice registered nurse program shall meet the educational requirements of the nationally recognized certifying body whose certification program the graduates are prepared to pursue as accepted by the board R.S.37:920.A.(2).

c. The program shall have a clearly written mission, curriculum, and outcome objectives relevant to the

respective advance practice specialty and/or functional role preparation.

d. The program has a systematic plan for program evaluation and assessment and documents the use of data in decision making for program development, maintenance, and revision.

e. The program evaluation plan shall document that the curriculum prepares graduates to meet the standards for the advanced practice registered nurse as specified in LAC 46:XLVII.4513.B.1-8.

f. Nurse faculty shall:

i. hold a current license to practice as a registered nurse in Louisiana.

ii. hold the minimum of a master's degree in nursing; may include other credentialed providers who provide content relevant to the specialty and/or functional role of the APRN being prepared;

iii. include APRN's licensed in the specialty being taught;

iv. be qualified through academic preparation and experience to teach the subject assigned and shall meet the standards for faculty appointment by the controlling institution; and

v. clinical preceptors must be licensed in Louisiana as an APRN, physician, dentist or as approved by the Board.

2. Guidelines for Advanced Practice Registered Nurse Students' Clinical Practicum

a. Advanced practice registered nursing students may perform advanced practice nursing functions under the guidance of a qualified instructor or preceptor, (as defined in LAC 46:XLVII.4505), as a part of their program of study.

b. Out-of-state schools shall request in writing to the board and have approved, any request to initiate a clinical practicum in Louisiana. The following information relative to advanced practice registered nurse student(s) shall be submitted:

i. student(s) name;

ii. the clinical practice setting;

iii. the credentials of the instructor/preceptor;

iv. evidence of RN licensure in Louisiana.

B. Types of Approval

1. Initial Approval. Initial approval shall be granted to an advanced practice nurse program, which upon application to the board, documents that it meets all standards established by the board.

2. Full Approval. Full approval shall be granted to an advanced practice nurse education program once the program provides documentation that members of the first class of advanced practice students have graduated, become certified, and licensed as APRNs in accordance with the standards established by the board.

3. Continued Approval

a. The education program shall notify the board of any recommendations and/or changes in accreditation by the appropriate regional and/or national accrediting body and/or any changes in the eligibility of its graduates to take the national certifying examination of a nationally recognized certifying body. The educational program will be reviewed by the board at any time the board determines a review is necessary to maintain the program's approval status.

b. After due process of review, if the board determines that a program is not in compliance with the

standards set forth in these rules, the board shall notify the program in writing of identified deficiencies within 60 days.

c. The program shall submit evidence of progress, which addresses correction of the identified deficiencies within six months of the board's date of citation of non-compliance. If the program fails to comply, the board shall allow for a hearing in accordance with the administrative rules; based on evidence provided, the board may withdraw approval of the program.

C. Procedure for Submitting Required Forms and Reports

1. Annual Report. The educational program shall submit a designated number of copies of an annual report on forms provided by the board, on the designated date, accompanied by a copy of the current school catalog.

2. Interim Report. The educational program shall submit a report if requested in reference to B.3.c above.

3. On-site surveys may be made at the discretion of the board, or upon request of the program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 27:726 (May 2001).

§4513. Authorized Practice

A. Scope of Practice. An advanced practice registered nurse shall practice as set forth in R.S. 37:913(3)(a) and the standards set forth in these administrative rules. The patient services provided by an APRN shall be in accord with the educational preparation of that APRN. APRNs practicing in accord with R.S. 37:913(3)(a) are not required to have a collaborative practice agreement. The APRN who engages in medical diagnosis and management shall have a collaborative practice agreement that includes, but is not limited to, the following provisions: (R.S. 37:913.8 and 9).

1. availability of the collaborating physician or dentist for consultation or referral, or both;

2. methods of management of the collaborative practice which shall include clinical practice guidelines;

3. coverage of the health care needs of a patient during any absence of the APRN, physician, or both parties.

B. Standards of Nursing Practice for the Advanced Practice Registered Nurse. Standards of practice are essential for safe practice by the APRN and shall be in accordance with the published professional standards for each recognized specialty and/or functional role. The core standards for all categories of advanced practice registered nurses include, but are not limited to:

1.-3. ...

4. an APRN shall use critical thinking and independent decision-making at an advanced level, commensurate with the autonomy, authority, and responsibility of the practice role and/or specialty while working with patients and their families in meeting health care needs;

5. an APRN shall demonstrate knowledge of the statutes and rules governing advanced registered nursing practice and function within the legal boundaries of the appropriate advanced registered nursing practice role;

6. an APRN shall demonstrate knowledge of and apply current nursing research findings relevant to the advanced nursing practice role and specialty;

7. an APRN shall make decisions to solve patient care problems and select medical treatment regimens in collaboration with a licensed physician or dentist;

8. an APRN shall retain professional accountability for his/her actions and/or interventions.

C. - C.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, and Louisiana State Board of Nursing, LR 22:981 (October, 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 23:1245 (June, 1999), amended, LR 27:727 (May 2001).

§4515. Continued Competence of Advanced Practice Registered Nurses

A. Continued competence requirements shall apply as follows.

1. Maintains advanced practice recertification in accordance with the nationally recognized certifying body's criteria as approved by the board; or

2. when advanced practice certification/recertification is not available, or APRNs who are licensed by grandfathering, without advanced practice certification, the APRN shall meet the requirements for renewal as specified in the LAC 46:XLVII.4507.E.2.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996), amended LR 27:727 (May 2001).

§4517. Additional Standards For Each Advanced Practice Nurse Category

A. The APRN is responsible and accountable for knowing the specific standards of practice for his/her specialty and/or functional role and for other state and federal rules and regulations that effect his/her patient population(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996), amended LR 27:727 (May 2001).

Barbara L. Morvant
Executive Director

0105#039

RULE

Department of Health and Hospitals Board of Nursing

Alternatives to Disciplinary Proceedings (LAC 46:XLVII.3419)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards rules pertaining to Alternatives to Disciplinary Proceedings. The rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses

Subpart 2. Registered Nurses

§3419. Alternative to Disciplinary Proceedings

A. Under the provisions of *Louisiana Revised Statutes* 37:911 et seq., as re-enacted and amended, the Louisiana State Board of Nursing (board) has the authority to establish and implement a recovering nurse program as an alternative to the disciplinary process. The RNP is established to assist registered nurses or student nurses who have demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or who have demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition, so that such nurses or student nurses can be treated and return to the practice of nursing in a manner which will not endanger the public health, safety and welfare. Only nurses or student nurses whose conditions have reliable indicators of ability for safe nursing practice will be eligible for participation in the RNP.

1. The purpose of the RNP is to encourage the voluntary participation of such nurses or student nurses in appropriate rehabilitative medical treatment and/or ongoing aftercare and monitoring, and to allow for the deferral of administrative proceedings of such nurses under the Louisiana Nursing Practice Law, R.S. 37:911-933.

A.2. - B. ...

1. ensure the health, safety and welfare of the public through a program that closely monitors registered nurses or student nurses whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition;

2. promote safe nursing care by preventing and/or restricting the practice of the chemically, physically, and/or mentally impaired nurse or student nurse;

3. implement a plan for identification, referral to treatment facilities and monitoring of the chemically, physically and/or mentally impaired nurse or student nurse;

4. establish criteria for identification of a chemically, physically and/or mentally impaired nurse or student nurse;

5. ...

6. provide a structured program for nurses and student nurses seeking recovery from the impairment through a non-punitive process;

7. provide educational programs to the health care community related to the identification and intervention of chemically, physically and/or mentally impaired nurses or student nurses, subsequent treatment alternatives, and monitoring.

C. ...

* * *

Confidentiality Call records of a nurse or student nurse who has successfully completed or is in the non-disciplinary alternative program shall not be subject to public disclosure, and shall not be available for discovery proceedings except as required by federal and state confidentiality laws and regulations. The records of a nurse or student nurse who fails

to comply with the Program Agreement or who leaves the program without enrolling in a alternative program in the state to which the nurse moves, or who subsequently violates the Nurse Practice Act or the rules of the board, shall not be deemed confidential except for those records protected by Federal and State confidentiality laws and regulations.

Impaired Nurse Ca registered nurse or student nurse who has demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or has demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition.

* * *

Recovering Nurse Program (RNP) Ca program established by the board to identify and assist registered nurses, registered nurse applicants and student nurses whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition.

* * *

Student Nurse Can individual who is enrolled in a Louisiana State Board of Nursing approved program preparing for licensure as a registered nurse.

D. - D.2 ...

3. ...

a. licensed registered nurse who resides in the state of Louisiana; or graduate of a school of nursing who is eligible for licensure in Louisiana; or registered nurse currently enrolled in a peer assistance program and who is requesting endorsement from another state; or registered nurse currently enrolled in a peer assistance/alternative program and who is licensed in Louisiana and is requesting transfer back to Louisiana, or a student nurse enrolled in a Louisiana State Board of Nursing approved program;

b. ...

c. addicted to or uses alcohol and/or other mood altering substances including prescription drugs, or has a physical or mental condition, which impairs or potentially impairs the ability of the nurse or student nurse to perform duties safely;

d. no previous disciplinary action within the past two years. No previous peer assistance/alternative program participation unless first relapse uncomplicated by previous history;

e. - i. ...

j. agrees to comply with all RNP specifications and signs Program Agreement including statement of admission of chemical dependency or other impairment.

E. - E.1. ...

2. A registered nurse or student nurse seeking confidential entry into the Recovering Nurse Program (RNP) is initially interviewed by the board's professional staff, the employer, and/or a qualified clinician to assess the registered nurse or student nurse's immediate needs, to identify and evaluate the nature and extent of the nurse's or student nurse's impairment, and to determine the nurse's or student nurse's motivation for seeking entry into the program. Eligibility for entry into RNP is based upon the criteria in §3419.D.

3. The board reserves the right to require participation in RNP of any impaired individual who has disciplinary action on their license or who is seeking licensure or who is enrolled in an approved program preparing for licensure as a registered nurse.

4. - 6.c. ...

d. A participant's failure to comply with the RNP agreement may constitute grounds for disciplinary action.

F. ...

1. For nurses or student nurses who have met criteria in §3419.D. and have entered the program confidentially with no disciplinary action will progress according to the guidelines established by the board.

2. Nurses or student nurses who are admitted by disciplinary action will progress according to guidelines established by the board.

G. ...

1. A participant who moves from Louisiana to another state with an alternative program shall have records transferred to that program.

2. A participant nurse or student nurse who moves to a state where there is no alternative program shall have the nurse's records transferred to the board in the receiving state and notification of same to Nursing Consultant for Compliance.

H. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 27:728 (May 2001).

Barbara L. Morvant, R.N.
Executive Director

0105#027

RULE

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

Continuing Education/Nursing Practice
(LAC 46:XLVII.3335)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919 has amended the Professional and Occupational Standards rules pertaining to Continuing Education/Nursing Practice. The rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

§3335. Continuing Education/Nursing Practice

A. ...

B. Definitions for the Purposes of §3335.

*Full-Time Nursing Practice*Ca minimum of 1,600 hours, per year, of employment as a registered nurse or full-time equivalency requirements set forth by the employer. For self-

employed, home health, and contract nurses, a minimum of 1,600 documented nursing practice hours, exclusive of travel, per calendar year, is accepted as full-time employment. Documentation of practice hours shall include paycheck stubs and a log record of actual hours worked.

C. - G.10.a. ...

b. submit applications for three proposed continuing education activities; if approved, a provider number will be issued for the first three programs as a condition of the process to become approved to be a continuing education provider;

c. fees payable upon submission of an application for total initial provider unit review are \$800 for two years, with \$100 being non-refundable. The fees for individual continuing education activity approval for the first three programs in preparation to be a provider are \$75 (non-refundable) plus \$10 for each contact hour of instruction, up to a maximum of \$700. A fee of 25 percent of the original fee, with a minimum of \$30, is payable for an extension of the approved status.

11 - 11.b. ...

c. fees payable upon submission of an application for total provider unit review for re-approval are \$800 for two years or \$1,600 for four years, with \$100 being non-refundable.

H - H.1.b.iv. ...

(a). a philosophy and/or mission of continuing education;

(b). - 2. ...

a. Individual offerings, as a pre-requisite for provider status, shall be submitted to the board at least 90 calendar days prior to implementation of the continuing education activity.

H.2.b. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4)(12) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 25:514 (March 1999), LR 27:729 (May 2001).

Barbara L. Morvant
Executive Director

0105#026

RULE

**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 Request for Services Registry

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 transfers responsibility for the waiting list for the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver to the Bureau of Community Supports and Services (BCSS). Regional MR/DD Waiver waiting lists shall be consolidated into a single statewide request for services registry arranged in order of the date and time of the initial request. Those persons on regional waiting lists prior to the date of the transfer of responsibility to BCSS shall be placed on the request for services registry in the order of the date and time on record when the candidate initially requested a slot in the waiver, subject to a subsequent determination that he/she meets the criteria for inclusion on the registry. When a candidate is listed on more than one regional waiting list, the earliest date and time on record shall be considered the initial request. Persons who wish to be added to the request for services registry shall contact a toll-free telephone number maintained by BCSS. In addition, the department adopts the following regulations governing the request for services registry for the MR/DD Waiver.

A. Inclusion Criteria

1. **Persons Currently on the Waiting List.** Persons on the waiting list prior to October 27, 2000, shall be screened to determine whether they are legitimate candidates for waiver eligibility. Only persons found to meet the criteria for candidacy shall be placed on the request for services registry. However, if a waiver slot becomes available before the next person on the waiting list has been screened, that person shall be allowed to make application for the slot.

2. **Entry to the Request for Services Registry.** On or after October 27, 2000, persons who wish to be entered on the request for services registry shall be screened to determine whether they are legitimate candidates for waiver eligibility prior to their name being placed on the registry. Only persons who meet the criteria for candidacy shall be added to the registry for waiver services.

3. **Waiver Candidacy.** The candidate must provide documentation that there is a reasonable expectation that he/she meets the state's definition of being mentally retarded or developmentally disabled. In addition, the candidate must appear to meet the financial, disability, nonfinancial and ICF-MR level of care criteria for Medicaid eligibility, according to his/her own statement or the statement of a responsible party.

B. Exclusion Criteria

1. **Failure to Cooperate.** Potential candidates who fail to provide requested documentation or otherwise fail to cooperate within a reasonable length of time shall be excluded from the registry. The potential candidate shall be informed of the time limits involved when the information is requested.

2. **Insufficient Documentation of Disability.** Documentation of the type and degree of disability must support the contention that the potential candidate meets the state's definition of mentally retarded or developmentally disabled.

3. **Ineligibility Determined during Pre-screening.** Persons who do not meet the eligibility criteria for an ICF-MR level of care according to their own statement on a pre-screening tool devised by BCSS shall be eliminated from the MR/DD waiver request for services registry.

4. **Subsequent Determination of Ineligibility.** BCSS may exercise its authority to eliminate a potential candidate from the registry when information provided about the potential candidate's situation indicates that he/she would not be eligible if he/she were to apply at the present point in time. For example, a candidate could not become eligible for a waiver slot if the candidate moved out of state with the intent to become a resident of that state, or was incarcerated and placed under the jurisdiction of the penal authorities, courts, or state juvenile authorities.

David W. Hood
Secretary

0105#082

RULE

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

Adult Denture Program Service Locations

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 establishes requirements for Adult Denture Program providers reimbursed under the Medicaid Program and conducting business at locations other than their principal place of practice. Adult Denture Program providers shall provide the physical address and business telephone number of their principal place of practice to the Provider Enrollment Unit and DHH dental consultants (LSU School of Dentistry). This address must be on file with the Louisiana Board of Dentistry. Records documenting the services provided shall be maintained at this location. To be eligible for reimbursement under the Adult Denture Program, the service must be performed in either the parish where the provider's principal place of practice is located, any surrounding parish with a contiguous border of at least one mile, or any parish with a land border of at least one mile contiguous with those parishes.

David W. Hood
Secretary

0105#080

RULE

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

Home Health Program Rehabilitation Services

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 expands home health services under the Medicaid Program to include coverage of occupational therapy and speech therapy. In addition, the bureau amends the March 20, 1996 rule governing reimbursement for home health services to establish new reduced rates for home health rehabilitation services that are the same as the rates paid for outpatient hospital rehabilitation services. Home health rehabilitation services include physical, occupational and speech therapies. All home health rehabilitation services must be prior authorized through the fiscal intermediary's Prior Authorization Unit in order to receive payment.

David W. Hood
Secretary

0105#081

RULE

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

**Public Nursing Facilities
Reimbursement Methodology**

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, Bureau of Health Services Financing creates an enhanced payment pool for qualifying nursing facilities, subject to the availability of funds and to the payment limits as set forth in 42 CFR 447.272.

Qualifying nursing facilities are parish-owned nursing facilities that meet the following criteria: 1) have an annual Medicaid occupancy level at or above 60 percent; 2) provide 12,000 or more Medicaid days of care annually; and 3) have entered into, or be part of a parish government that has entered into, a transfer agreement with the department to provide for an intergovernmental transfer of funds.

The nursing facility payment differential for any year shall be the difference between the upper limit of aggregate payments to nursing facilities as defined in 42 CFR §447.272 and the aggregate Medicaid per diem reimbursement paid to nursing facilities for the year. This is determined for all nursing facilities participating in the state's Medicaid Program, or for a subset of these facilities that includes parish-owned nursing facilities for which a

separate upper payment limit calculation is in effect in that year as required by 42 CFR §447.272.

Total payments from the pool in any year shall not exceed a percentage of the nursing facility payment differential that will be determined by the department for each payment year. The enhancement pool payment amount shall be distributed to qualifying parish-owned nursing facilities based on their pro-rata share of the total annual Medicaid days of care of all qualifying parish-owned nursing facilities. Determination of annual Medicaid occupancy level and Medicaid days of care shall be based on the most recently filed cost reports on file with the department. Implementation of this Rule is subject to approval by the United States Department of Health and Human Services, Health Care Financing Administration.

David W. Hood
Secretary

0105#084

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Professional Services Program
Physician Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule in the Medical Assistance Program as authorized by R.S. 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 restores the 7 percent reduction that was previously made to the reimbursement fees paid to physicians for selected locally-assigned HCPCs and the following CPT procedure codes: surgery codes (10040-69979), medicine codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999) and pathology and laboratory codes (80048-89399). In addition, the reimbursement fees for certain designated procedure codes is increased to the following rates:

	Evaluation and Management			
99212C	\$30.13	99213C	\$36.13	
99215C	\$49.63	99283C	\$35.23	
			99214C	\$41.13
	Follow-up Prenatal Visit			
	Z9005C	\$33.43 (03*)	\$36.13 (09*)	
	* type of service			

David W. Hood
Secretary

0105#083

RULE

Port Commission Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Steamship Pilots (LAC 46:LXXVI.Chapter 1)

Editor's Note: The following Rule, which appeared on pages 1064-1067 of the May 20, 2000 edition of the *Louisiana Register*, is being repromulgated in its entirety to correct codification errors.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River hereby repeals the prior rules enacted in Louisiana Register, Vol. 14, number 5, May 20, 1988 and hereinafter promulgates re-enactment of those previous rules and/or promulgates rules as to definitions, appointments of commissioners, rules and records of meetings, examination of pilots, ability to form an association, report of incompetency and removal of pilots, together with rules of minimum requirements, applicants, examination, and appointments relative to the commission of steamship pilots.

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports adopts the following actions pertaining to the rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the Commission. This is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana Statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a cleaner and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission's authority and funding. The new document updates the criteria for rulemaking and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly define the commission's legal authority and duty in the investigative and disciplinary process.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXVI. Steamship Pilots

Chapter 1. New Orleans and Baton Rouge Port Pilots

§101. Definitions

Association shall mean pilot members of the New Orleans-Baton Rouge Steamship Pilot Association.

Board of Commissioners (hereinafter used interchangeably as Board, Commission, or Examiners) shall *Louisiana Register Vol. 27, No. 05 May 20, 2001*

mean the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, as designated in R.S. 34:1042.

Examiner shall mean those individuals appointed as per law.

Master License shall mean the license issued by the United States Coast Guard.

Pilot shall mean a New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34: 1043.

Service Time shall mean the applicant's service time on the Mississippi River.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000), repromulgated LR:732 (May 20, 2001).

§103. Board of Steamship Pilot Commissioner

A. When there is a need for new commissioners, the Board of Commissioners shall make the recommendations to the governor in accordance with the law and in compliance with the commission rules.

B. When this need arises, the commissioners shall take into consideration the following in making their recommendations:

1. ability to serve;
2. qualifications;
3. length of service as a commissioned pilot.

C. Commissioners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, commissioners shall not suffer any loss of benefits or compensation while they are performing their duties.

D. All ordinary and necessary operating and administrative costs and expenses, including, but not limited to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, pilot commissioners' compensation, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the commission while performing their/ its duties shall be provided by the pilots and paid through their pilot association.

E. The Commissioners shall maintain an office and conduct business as is necessary to fulfill its legislative manda and/or as may be required by the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000), repromulgated LR:732 (May 20, 2001).

§105. Rules, Records, Meetings, Application

A. All commission rules must be adopted by a majority of the commissioners, further, they must be submitted for legal approval before they are submitted for final approval and adoption. The Board of Commissioners shall maintain records in accordance with R.S. 49:950 et seq., and any other state laws. The Board of Commissioners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The Board of Commissioner shall conduct its meeting in accordance with R.S. 49:950 et seq., and any other state laws.

B. The commissioners shall hold quarterly meetings on the call of the president. The president has the prerogative of

calling additional meetings as needed to conduct business on giving said notice as per law.

C. These rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in his/her calling within the operation territory defined in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000), repromulgated LR:732 (May 20, 2001).

§107. Minimum Requirements, Applicants, Examination, Appointments

A. All applications for commissions to serve as a New Orleans and Baton Rouge Steamship Pilot must be in writing, must be signed by the applicant, and presented to the President of the Board for commissioner. All applications must be accompanied by satisfactory evidence of compliance with the following prerequisites:

1. applicant must hold a First Class Pilot's License of "any" gross tons, (the word "any" as interpreted by the United States Coast Guard) for the Mississippi River from Chalmette, Louisiana, to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana issued to him or her by the United States Coast Guard, and

2. also be licensed as:

a. Master of Rivers or Inland Steam or Motor vessels; or

b. licensed as Master or Mate of Ocean Steam or Motor vessels; or

c. have acquired a college degree or an associates degree granted by a college or university accredited by the American Association of Colleges and Secondary Schools; and

3. must have completed a Ship Handling Simulator course and a Bridge Resource Management course or any other industry related course that the Board of Examiners may deem as relevant and necessary.

B. As of January 1, 2005, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots, in addition to Section A (1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels, and must have one year service on his or her license; or

3. must have successfully acquired an associates degree or have achieved an equivalent of sixty hours of credit from an accredited college or university, and must have six month service on his or her license; or

4. must have achieved a college degree from an accredited college or university and must have one year service on his or her license.

C. As of January 1, 2010, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots must, in addition to Section A(1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels of 1600 gross tons; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels of 1600 gross tons and have two years service on his or her license; or

3. must have successfully acquired an associates degree, or have achieved an equivalent sixty hours of credit

from an accredited college or university, and have one year service on his or her license; or

4. must have successfully acquired a college degree from an accredited college or university.

D. Applicant shall not have reached his or her forty-fifth birthday before being commissioned.

E. Applicant must submit evidence of possessing a high school diploma or G.E.D.

F. Applicant must be a registered voter of the State of Louisiana for a minimum of one year.

G Applicant must submit evidence of good moral character.

H. Applicant must submit to the Board of Examiners, a certificate that applicant is in good health and physical condition and such examination shall meet approved maritime standards.

I. Applicant must submit to and pass a drug screen test that is dated within 30 days of the application submission.

J. Applicant must sign an obligation to abide by the Charter, By-Laws, Rules and Regulations of the New Orleans and Baton Rouge Steamship Pilots Association and the Board of Commissioners.

K. Applicant must have been duly elected an apprentice in the New Orleans Baton Rouge Steamship Pilots Association as per such Association Rules in effect as of such application.

L. Applicant must serve an orientation period over the route, as an apprentice ship pilot, for not less than 12 months, which may be extended up to one additional year as may be determined by the Board of Pilot Commissioners. If after the one year extension apprenticeship period the applicant fails to meet the criteria and standards of the Board, then said applicant shall be released from the apprenticeship program. The criteria and standards of the Board include but are not limited to:

1. an applicant's recklessness and display of lack of judgment;

2. disregard of state rules, laws, and regulations;

3. disregard of Coast Guard rules and regulations;

4. unfit for the position and job of a river pilot;

5. lack of moral integrity, veracity, ability, capability, and any other such issues, complaints, or questions brought by any responsible party to the attention of the Board.

M. Examination by the Board of Commissioners

1. All applicants must successfully complete an oral and/or written examination to be conducted by the Board of Commissioners.

2. Those applicants who have complied with all of the provisions herein shall be examined by the Examiners as to the applicant's knowledge of pilotage and demonstrate the applicant's proficiency and capability to serve as commissioned pilot. This examination shall be given in such a manner and shall take such form as the Board, in its sole discretion, from time to time as the Board shall determine.

N. Restrictive Job Assignments

1. Those applicants who satisfactorily complete the examination given by the Board shall be certified to the governor as per law. Such certifications may be restrictive in job assignments, including but not limited to, vessel size and/or draft for new appointees for a specified period of time.

2. Restrictive job assignment period shall be 24 months in duration; this period shall be in 3 periods of 8 months each during which the pilot will be assigned vessels of a restricted size to be determined and set by the Commission; after each 8 month period the applicant may graduate to a larger size vessel, all to be determined by the Commission; the vessel size limitation for these restricted periods shall be established exclusively by the Commission; such limitations shall be at the unilateral discretion of the Commission at all times material hereto; limitations established by the Commission shall be based, but not exclusively, on a ratio of the most recent Association determination of the average size vessel piloted on the Commission route.

O. Commissioned pilots shall comply with all requirements to maintain their state commission and such other certifications as determined by the Board of Pilot Commissioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000), repromulgated LR:733 (May 20, 2001).

§109. Association of Pilots

A. The pilots may form themselves into an association or associations, as to they may seem fit, not in conflict with the rules and regulations of the Board of Commissioners.

B. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the Commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the majority of pilots and protect the life and property of the region.

C. The Board of Commissioners hereby recognizes the fact that the New Orleans and Baton Rouge pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Commission that the said pilot Association has operated and is now operating within all state laws and is not known to be in conflict with the rules and regulations of the Board of Commissioners.

D. No pilot association, incorporated or non-incorporated, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Commission; further, any attempt to exercise any authority over or affecting the commission is a violation of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000), repromulgated LR:734 (May 20, 2001).

§111. Report of Incompetency, Carelessness of Pilots, Removal, Suspension

A. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said Commission shall conduct a preliminary investigation into the casualty to determine if there are any violations of the law or commission rules.

B. When probable cause is found, said commission shall report its findings to the governor. The governor shall, thereupon, refer the case to the Board of Commissioners for formal investigation. The Board shall investigate and report its findings with recommendations to the governor, whereupon, the governor may take action in his discretion.

C. All formal investigations shall be conducted in accordance with R.S. 49:950 et seq.

D. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said pilot shall report such casualties as follows:

1. report the casualty by whatever means available to the Board of Commissioners as soon as practical;

2. be available for interview by the commission and furnish complete details of the casualty;

3. make a written report to the Board of Commissioners as soon as practical.

E. Interviews and written reports to the board, which may thereupon, with or without complaint being made against said pilot, investigate the matter reported on.

F. Any pilot who shall, neglect, or refuse to make a verbal or written report to the Board as required by these rules, shall be reported to the Governor for action pursuant to law.

G. Any pilot requested or summoned to testify before the Board shall appear in accordance with said request or summons and shall make answers under oath to any questions put to him/her related to or in any way connected with the pilot's service or the pilot's territory over which he/she is licensed to pilot.

H. In any case, where the commission finds or suspects a violation of the law, or in a violation of its rules, they may charge the pilot with misconduct and remove him from duty, however, this rule shall not abrogate any of his/her rights pursuant to all applicable laws.

I. When an investigation uncovers dangerous and/or unsafe condition and/or conditions that may jeopardized the interests, safety, health, or welfare of the pilots, vessels, cargo, property or individuals, the Commission may make recommendations for the corrective measures.

J. A pilot shall not under any circumstances make any statement to anyone until such pilot or pilots have has legal counsel when he/she is involved in a casualty, or any other complaint.

L. Any commissioner who with probable cause and/or has reason to believe, suspect, and/or knows that a pilot is or has been or may be under the influence of drugs, alcohol, or any other stimulant or depressant that may affect the performance of that pilot, or has been charged with misconduct, while subject to commission rules and/or state pilotage laws, that Commissioner in his/her discretion may immediately relieve that pilot without the necessity of formal notice and hearing from pilotage duty, in order to protect the interest, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals. Further, at the earliest practical time, the Commission must request permission from the Governor, per law, to conduct the appropriate formal hearing or hearings which satisfies and protects the due process and equal protection requirements as afforded that pilot by the state and federal constitutions.

M. No person shall engage in any activities concerning the members of the New Orleans and Baton Rouge

steamship pilots unless said person has been elected or appointed to do so by one of the governing boards.

N. No member of the Board of Pilot Commissioners, in the discharge of his/her duty or responsibility of his/her office will vote on a matter in which he/she is a party to or has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000), repromulgated LR:734 (May 20, 2001).

§113. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable for any reason whatsoever, that it may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1067 (May 2000), repromulgated LR:735 (May 20, 2001).

Martin W. Gould, Sr.
President

0105#038

RULE

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Alcohol Restrictions (LAC 46:LIX.703)

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.703, as follows.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIX. Private Security Examiners

Chapter 7. Insignias, Markings, Restrictions

§703. Alcohol Restrictions

A. No licensee, as defined in R.S. 37:3270 et seq., shall sell, dispense or handle alcoholic beverages of high or low alcohol content, or in any manner perform those functions for which a permit is required by R.S. 26:932, while on duty as a security officer as defined in R.S. 37:3272. Further, in no event shall any licensed security officer sell, dispense, or handle alcohol while in uniform, regardless of whether or not such officer is on duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR

13:757, (December 1987), amended LR 15:14 (January 1989), LR 27:735 (May 2001).

Wayne R. Rogillio
Executive Secretary

0105#035

RULE

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

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

The Department of Social Services, Office of Community Services, has amended rule LAC 67:V.3503.A - D.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 5. Foster Care

**Chapter 35. Payments, Reimbursables and
Expenditures**

§3503. Reimbursement Rates for Residential Facilities

A. Office of Community Services (OCS) will implement a competitive solicitation process as a means to select all private residential facility-based programs to serve foster children and to establish per diem rates for that residential service. The departments published Prospective Provider Procedure will be followed.

B. Individuals and/or agencies currently providing residential services to OCS foster children and those that contact the Department of Social Services, Office of Community Services (OCS) wishing to provide residential services to foster children funded by OCS are placed on a prospective provider list. All persons and agencies on the list will be notified at the time that the office seeks to develop residential services for foster children in a specific geographic area. The current and prospective residential providers will be mailed a full description of the type and scope of programs sought in geographic areas along with an invitation to submit to OCS a proposal for that service. The notification will include a list of other materials that providers may request/need to assist proposers in preparation of their proposals. The name and telephone number of an OCS representative will be given to prospective providers to contact for more information.

1. A committee of professionals from OCS will evaluate the proposals according to criteria included in the packet of materials. The committee will select the program(s) most fitting the needs of the foster care program.

C. Each proposal will include a submitted per diem cost bid with a budget in accordance with the instructions for the solicitation. This competitive process, resulting selections and final negotiations constitutes OCS rate setting process as rates will be based on market economy and proposers fiscal projections for programs. The final rate for each provider can be negotiated down from the bid rate, but in no case will be higher than the bid rate. The use of the residential beds at the rate set through this process will be done on a case-by-case basis by the OCS case worker(s) as

the need arises. There are no guarantees of specific sums of monthly or annual payments or referrals of clientele.

D. The department reserves the right to cancel the solicitation if the expenditures for the aggregately selected proposals would result in OCS exceeding available funds. In the event the department cancels the solicitation process, the department will freeze the rates for the current programs at the current amount. For rates issued for the 2000/2001 rate year, the department continues freezing the rates at the 1999/2000 amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1084.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 25:1609 (September 1999), LR 26:24 (January 2000), LR 26:1342 (June 2000), LR 26:2665 (November 2000), LR 27:735 (May 2001).

J. Renea Austin-Duffin
Secretary

0105#037

RULE

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

**FITAPC Income -Producing Property
(LAC 67:III.1235)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency has amended §1235 to add real property which annually produces income consistent with its fair market value as an exclusion from resources for purposes of determining eligibility. The income from the property will continue to be counted in determining eligibility.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 2. Family Independence Temporary
Assistance Program (FITAP)**

**Chapter 12. Application, Eligibility, and Furnishing
Assistance**

Subchapter B. Conditions of Eligibility

§1235. Resources

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

1. - 21. ...

22. real property which annually produces income consistent with its fair market value, even if only used on a seasonal basis. Such property includes rental homes and vacation homes.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001).

J. Renea Austin-Duffin
Secretary

0105#025

RULE

Department of Treasury

**Credit Card Acceptance by State Agencies
(LAC 71:I.Chapter 9)**

In accordance with the applicable provisions of the Administrative Procedures Act. R.S. 49:950, et seq., the Department of the Treasury has adopted the following rule entitled "Credit Card Acceptance by State Agencies," in accordance with R.S. 49:316.1.

Title 71

TREASURY

Part I. Treasurer

**Chapter 9. Credit Card Acceptance by State Agencies
§901. Purpose**

A. It is the intent of the state to accept payment of any obligation including, but not limited to, taxes, fees, charges, licenses, service fees or charges, fines, penalties, interest, sanctions, stamps, surcharges, assessments, obligations or any other similar charges by credit cards, debit cards or similar payment devices approved by the treasurer. The state recognizes the expanding role of electronic commerce ("e-commerce") in conducting business and the state is taking steps to become an active participant with the development of the "E-Mall", the state's one-stop shopping internet web site. Electronic payment methods, including credit cards, debit cards and similar devices is a vital link in "e-commerce". In order to incorporate these payment methods, Treasury has developed and promulgated guidelines in accordance with R.S. 49:316.1.

§903. Definitions

Payment CardCa valid credit or debit card or similar payment device which is designated by the treasurer as acceptable by any state entity to make payment for any state obligations.

Card ProviderCthe issuer of a credit card, debit card or similar device who has contracted with Treasury for acceptance of their payment card or a financial institution which has contracted with Treasury for processing of card payments.

Card HolderCthe person a credit card, debit card or similar device has been issued or an authorized user of a payment card.

ObligationCtaxes, fees, charges, licenses, service fees or charges, fines, penalties, interest, sanctions, stamps, surcharges, assessments, obligations and any other similar charges or obligations.

Provider BillingsCthe manner in which the card providers will bill the state for the settled card payment transactions.

State ChargeCa fee established by the treasurer in the form of a uniform dollar amount or percentage assessed for all types of cards or devices accepted by state entities.

Merchant Account Number—the account number assigned by the Card Provider to the state entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:736 (May 2001).

§905. Application for Credit Card or Similar Devices

A. The treasurer will negotiate and enter into contracts, with card provider(s) not to exceed five years, for acceptance of credit card, debit card and similar payment devices. The treasurer will seek to achieve uniform implementation and standard terms and provisions with respect to the acceptance of payments by state entities. A state entity may recommend that the treasurer consider a specific credit or debit card for approval. Annually, the treasurer will publish on the treasurer's website a list of approved credit card, debit card or similar devices by which any state entity will be authorized to accept for payment of any obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

§907. Acceptance of Cards by the State Entities

A. The state, through any department, agency, board or commission or other state entity, may accept payment of any obligation by credit card, debit card and similar payment devices approved by the Treasurer. Each entity will apply for participation by completing a merchant service agreement. The original completed application must be delivered to treasury. Treasury will review the application for correctness and forward the application to the card provider for processing.

B. The agency may not set a per order minimum and/or maximum dollar transaction amount that an agency may accept payment by a payment card in compliance with card service agreements. State entities shall not institute or adopt any practice that discriminates or provides unequal treatment for any payment card versus any other payment card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

§909. Operating Procedures

A. Treasury will determine procedures that state entities must comply with to accept payment by payment card(s). These procedures, may be modified from time to time, to accommodate the state's accounting policies or treasury contract(s) for acceptance of payment card(s). Treasury will provide written procedures to participating state entities. These procedures will provide uniform implementation and standard terms and conditions for acceptance of payments by state entities. These procedures will determine:

1. the manner in which authorization is obtained by state agencies prior to making the card sales;
2. preparation of sales slips;
3. handling of card member refunds and credits;
4. settlement of transactions;
5. charge back rights;
6. card member disputes;
7. billing inquires;
8. retention of records; and
9. any other contract matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

§911. State Charge

A. Treasury, from time to time, will negotiate with card providers for a fee for processing payment card transactions with state entities. Treasury will seek to achieve a reasonable fee that reflects the economies of scale achieved by negotiation for a statewide fee applicable to all state entities. The fee may be composed of a percentage and/or a specific dollar amount as determined by treasury and the card provider.

B. The state charge shall encompass these various fees charged by card providers and include other applicable fees including fees by third party processors, or fees assessed by providers of Internet payment processing services. The state charge shall be a uniform dollar amount and/or percentage designated by the treasurer for all card types. The state charge will be revised from time to time and the state treasurer shall notify state entities of the revised state charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

§913. Fees

A. Each state entity shall assess a state charge for each payment transaction a payment card is accepted.

B. The state charge will be classified by the state entity into a fund designated by the treasurer. Each card issuer will provide to the treasurer and the entity a monthly billing detailing the amount of charges by merchant name and merchant account number. The entity will review the monthly billing and pay the invoice from the fund pursuant to an appropriation for this purpose by the legislature.

C. Each state entity will review the monthly billings and resolve discrepancies directly with the card provider(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

Ron Henson
First Assistant

0105#033

RULE

Department of Treasury Teachers' Retirement System

Optional Retirement Plan (ORP)
(LAC 58:III.1501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana has adopted a policy governing the marketing of the Optional Retirement Plan (ORP) to eligible members.

Title 58
RETIREMENT

Part III. Teachers' Retirement System of Louisiana
Chapter 15. Optional Retirement Plan (ORP)

§1501. Marketing Guidelines

A. The objective of these guidelines is to provide eligible employees a clear understanding of the ORP and TRSL retirement plans through a fair and balanced presentation.

B. In order to assure that eligible employees have all the information needed to make informed and unbiased decisions, they should be encouraged by their employers to talk to all three ORP carriers.

C. Each carrier should be provided the names of all newly eligible employees and their addresses at least once every semester. After these new employees have been counseled by the employer's personnel office staff on TRSL and other benefits, each carrier will then be permitted to initially contact the eligible employee at work, by phone, or by mail, to request a mutually agreed upon time for a personal presentation, if the eligible employee desires such a meeting. No high-pressure sales methods or multiple contacts may be used by the ORP sales representatives. All presentation materials presented to eligible employees by the ORP carriers will have to be reviewed and approved by TRSL prior to their distribution. This is to include all sales material and video presentations.

D. During any individual presentations, the carriers may provide the eligible employee with written comparative material from the carrier as well as a computer comparison of the ORP and TRSL retirement plans. This computer comparison will project the value of the ORP at retirement assuming realistic returns based on input variables agreed upon by the employee and the representative from the ORP carrier. The projection of ORP value can then be compared to the retirement value of TRSL for the same employment period.

E. All NASD required disclosures for the various investment vehicles shall be made by the ORP providers.

F. The registered ORP representatives will work within the following marketing guidelines set forth by TRSL.

1. TRSL has authority over ORP marketing effort of the approved companies.

2. Each eligible employer will provide the ORP carriers with the name(s) of an employer contact person(s). In turn, the carriers will provide the employer contacts with the name of their respective ORP representative(s). At least once a semester, each participating institution shall provide the ORP carriers with the names, addresses, and phone numbers of newly eligible employees.

3. Once new employees have received TRSL/benefit orientation by their employer, authorized ORP carrier representatives may contact newly eligible employees through brochure distribution in personnel offices, at employer-sponsored new employee orientation meetings, or through one introductory mailing or telephone call to request an appointment to illustrate and explain both TRSL and ORP benefits. There is otherwise to be no solicitation (including phone calls) on or off campus.

4. No gifts, other monetary awards or gratuities may be paid to any ORP member or any third party because of the ORP enrollment of any person.

5. No products other than TRSL-authorized ORP products may be sold by company representatives to eligible ORP participants, unless the ORP provider has a separate contract with that employer to sell other products, such as 403(b) annuities, life insurance, etc.

6. TRSL must approve all ORP sales literature and explanatory materials before any such materials may be distributed to employees in any way.

7. Each employer will make available to eligible employees the approved ORP information and the names and telephone numbers of the contact representative(s) for each ORP carrier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 27:738 (May 2001).

James P. Hadley, Jr.
Director

0105#034

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Architectural Engineers (LAC 46:I.1123)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the adoption of LAC 46:I.1123 pertaining to the board's interpretation of R.S. 37:145. R.S. 37:145 limits the use of the title "architect", or any term derived therefrom, to persons who have secured from the board a certificate of registration and license; the board proposes to interpret this definition as it pertains to a registered professional engineer who has a degree entitled Architectural Engineering from an accredited public or private college or university, or an entity formed by or employing such an engineer.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1123. Interpretation of La. R.S. 37:145; Architectural Engineers

A. A registered professional engineer who has a degree entitled Architectural Engineering from a public or private college or university accredited by the Accreditation Board for Engineering and Technology to offer such a degree may use the title "Architectural Engineer." A corporation, partnership, limited liability company, or group may include the title "Architectural Engineer" in its firm name, provided an owner, partner, or principal of that firm is a registered professional engineer who has such a degree from a public or private college or university so accredited.

B. This interpretation limits the use of the words "Architectural Engineer" to the descriptive title only. Nothing contained herein shall be construed to authorize or allow such an individual or firm to practice architecture in this state.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 27:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Architectural Engineers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

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)

The proposed rule pertains to the name that a registered engineer with an Architectural Engineering degree may use; it also pertains to the name that a corporation, partnership, limited liability company, or group may use, provided that an owner, partner or principal has such a degree. If such individuals or firms are not allowed to use the words "Architectural Engineering" in their firm titles, those individuals and firms would be required to use a different name in Louisiana. It is anticipated that the cost for these registered engineers and firms doing business in Louisiana under a different name would be nominal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule only affects the name that a registered engineer or firm of engineers may use, and thus there is no estimated effect on competition or employment associated with this proposed Rule.

Mary "Teeny" Simmons
Executive Director
0105#021

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Financial Institutions

Non-Depository Records Retention
(LAC 10:X1.501 and XVII.701)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3573.9, 9:3574.10, 9:3576.4, 9:3578.8, and 37:1807, the commissioner of the Office of Financial Institutions gives notice of intent to repeal LAC10:X1.501, the Rules promulgated in the *Louisiana Register*, Volume 17, page 588 (June 1991), and Volume 18, page 26, (January 1992), regarding records retention schedules, and adopt a Rule providing for a record retention schedule for all

non-depository persons subject to the supervision of the commissioner. This proposed Rule significantly streamlines the existing record retention Rule by requiring that applicable institutions maintain minimum records and retention periods as deemed necessary by the commissioner for the proper examination and supervision of the person by this office and clarifies that the rule applies to all non-depository persons supervised by the commissioner.

The proposed repeal and Rule will have no known effect on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XVII. Miscellaneous Provisions

Chapter 7. Records Retention

§701. Non-Depository Records Retention

Each non-depository person subject to the supervision of the Office of Financial Institutions shall retain such minimum records which are deemed necessary for the examination and supervision of such persons by this office and for such minimum retention periods as determined by the commissioner and set forth in a "record retention schedule" to be detailed in policy which may be amended from time to time as necessary. This rule does not replace the person's responsibility to create, implement, and maintain its own comprehensive record retention program, consistent with the person's strategic goals and objectives. Such records may be retained in various forms as approved by the commissioner, including but not limited to, hard copies, photocopies, computer printouts or microfilm, microfiche, imaging, or other types of electronic media storage that can be readily accessed and reproduced into hard copies.

For purposes of this rule, non-depository persons refers to any individual, corporation, limited liability company, partnership or other entity other than those considered by the commissioner to be depository institutions, such as banks, savings associations, credit unions and savings banks, and including, but not being limited to, residential mortgage lenders, collection agencies, sellers of checks, bond for deed escrow agents, check cashers, licensed lenders, loan brokers, credit repair services organizations, and pawnbrokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:414, 6:1014, 6:1085, 9:3554, 9:3556.1, 9:3572.7, 9:3573.9, 9:3574.10, 9:3576.4, 9:3578.8, and 37:1807.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:

Part XI. Consumer Credit

Chapter 5. Records Retention

§501. Licensed Lenders Records Retention Schedule

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:588 (June 1991) amended LR 18:76 (January 1992), repealed LR 27:

All interested persons are invited to submit written comments on this proposed Rule no later than 5 p.m. June 20, 2001 to Gary L. Newport, Chief Attorney, Office of

Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095, or by hand delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

Doris B. Gunn
Deputy Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Non-Depository Records Retention

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in any additional costs to the state of Louisiana or any local government unit. The purpose of the rule is to communicate to persons which are licensed pursuant to the Residential Mortgage Lending Act, Louisiana Consumer Credit Law, Collection Agency Regulation Act, Credit Repair Services Organizations Act, Louisiana Check-Cashing Law, Sale of Checks Act, Pawnbroker Act, and Bond For Deed Act, which records the commissioner will require to be retained. The rule is being promulgated in accordance with the discretion afforded the commissioner by R.S. 6:1091 A.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections for the state of Louisiana nor any other governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule shall only affect persons licensed pursuant to the aforementioned statutes. Licensees already provide for retention of certain records. The method which each uses for storage of records also varies greatly. Therefore, estimated additional costs associated with requirements of the rule are indeterminable but expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary) There is no anticipated effect on competition and employment within the affected industries as a result of the proposed rule.

Doris B. Gunn
Deputy Commissioner
0105#015

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Capital Companies Tax Credit Program
(LAC 13:XV.320)

The Department of Economic Development, Office of the Secretary, pursuant to the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following amendment to the rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1935, to provide for the investment of certain funds, as determined by the Secretary, in pre-seed, seed, and early stage business ventures, and certified disadvantaged businesses, and business ventures operating in economically distressed areas.

This proposed rule will have no known effect on family formation, stability, and autonomy as set forth in R.S. 49:972.

The full text of this proposed rule may be viewed in the Emergency Rule portion of this register.

Any interested person may submit written comments regarding the contents of the proposed Rule to Daryl K. Manning, General Counsel, Department of Economic Development, in person to One Maritime Plaza, 101 France Street, Baton Rouge, LA 70802; or by mail to P.O. Box 94185, Baton Rouge, LA 70804-9185. All comments must be received no later than 5:00 p.m., June 21, 2001.

Don J. Hutchinson
Secretary

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Capital Companies Tax Credit Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no significant implementation costs to state or local governmental units anticipated due to this Rule. All certified Louisiana capital companies are monitored and audited by the Office of Financial Institutions. Compliance with this rule will be monitored under the Office of Financial Institutions existing procedures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is estimated that between \$5,000,000.00 and \$10,000,000.00 of additional private venture capital funds will be made available to seed, pre-seed and to economically disadvantaged companies through the Capital Companies Tax Credit Program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition is anticipated. It is expected that some increase in employment in Louisiana based seed, and pre-seed businesses and in economically disadvantaged businesses will result. The exact increase in employment is not susceptible of accurate projection.

Don J. Hutchinson
Secretary
0105#057

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Licenses Necessary for Entry (LAC 46:I.1105)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.1105 "Licenses Necessary for Entry," to allow for owners to be licensed as young as 16 years old, with certain licensing requirements.

The text of this proposed rule may be viewed in the Emergency Rule section of this register.

This proposed rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

The domicile office of the Louisiana State Racing Commission is open from 8am to 4pm and interested parties may contact Charles A. Gardiner III, executive director; C. A. Rieger, assistant director; or Tom Trenchard, administrative manager, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through June 8, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licenses Necessary for Entry**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be no effect on revenue collections of local governmental units associated with this proposed rule. However, the state may receive a very slight increase (not measurable) in self-generated revenue through a few additional license applications sold to horse owners that are 16 to 18 years old.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits horse owners by allowing younger individuals to qualify for such licenses.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner III
Executive Director
0105#022

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 741C Louisiana Handbook for School
Administrators C Corrective Actions (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 change more clearly explains and refines existing policy as follows requirements of Corrective Actions schools and the roles/responsibilities of Distinguished Educators (DEs) and District Assistance Teams (DATs).

**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**

* * *

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
SystemC Corrective Actions**

2.006.09 A school that has a SPS of 30 or less or has a SPS of less than 100 and fails to reach its Growth Target shall enter into Corrective Actions. 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. The information shall be required on an annual and/or quarterly 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 completely rewrite 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 which shall include the following quantitative and qualitative data:
 - C Student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);
 - C Demographic indicators of the community and school to include socioeconomic factors.
 - C School human and material resource summary, to include teacher demographic indicators and capital outlay factors;
 - C Interviews with stakeholders: principals, teachers, students, parents;
 - C Student and teacher focus groups;
 - C Questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;
 - C 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.

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*.

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).

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 SBESE for approval.

If a Corrective Actions Level III school has achieved at least 40% of its Growth Target or 5 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 SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose state approval and all state funds.

Any reconstituted Schools SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. SBESE shall monitor the implementation of the Reconstitution Plan.

A school initially enters Corrective Actions Level I if it has an SPS of 30 or less or if it has an SPS of less than 100 and fails to reach its Growth Target.

A school moves into a more intensive level of Corrective Actions when adequate growth is not demonstrated during each 2-year cycle.

A school with an SPS of 30 or less, i.e., Academically Unacceptable School, shall move to the next level of Corrective Actions as long its score is 30 or less.

A school with an SPS of 30.1 to 50.0 shall move to the next level of Corrective Actions if it grows fewer than 5 points. If it grows 5 points or more each cycle, but less than its Growth Target, a school may remain in Corrective Actions Level I for two cycles and Corrective Actions Level II for one cycle.

A school with an SPS of 50.1 to 99.9 shall remain in Corrective Actions Level I as long as its growth is at least its Growth Target minus 5 points, but not less than 0.1 points. During the first 10-year cycle, there is no maximum number of cycles that such a school can stay in Level I as long as this minimum growth is shown each cycle.

A school exits Corrective Actions if its School Performance Score is above 30 and the school achieves its Growth Target.

Corrective Actions Summary Chart

School Level Tasks

Level I

- 1) Utilize state diagnostic process to identify needs; and
- 2) Develop/implement a consolidated improvement plan, including an integrated budget; 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 schools Reconstitution Plan or No State Approval/No Funding;
- 2) If Reconstitution Plan is approved by 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; and
- 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) Publicly identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) As allowed by law, reassign or remove school personnel as necessary; and
- 4) For Academically Unacceptable schools, ensure schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) District Assistance Teams continue to help schools;
- 2) Hold public hearing and respond to Distinguished Educators' written recommendations;
- 3) Local boards make a written response to SBESE 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) As allowed by law, local boards reassign or remove personnel as necessary; and
- 5) For Academically Unacceptable Schools, authorize parents to send their children to other public schools.

Level III

- 1) District Assistance Teams shall continue to help schools;
- 2) Authorize parents 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 5 points, whichever is greater; b) District shall develop Reconstitution Plan to be approved by SBESE; and c) SBESE grants non-school approval status.

Reconstitution or No State Approval/Funding

- 1) If Reconstitution Plan is approved by 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, SBESE assigns 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, SBESE approves or disapproves Reconstitution Plans. If 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 improvement 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 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.

Interested persons may submit written comments until 4:30 p.m., July 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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no effect on competition and employment.

Marlyn J. Langely
Deputy Superintendent
Management and Finance
0105#019

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741C Louisiana Handbook for
School Administrators C Corrective Actions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state governmental units. The proposed change more clearly explains and refines the existing policy as it pertains to changes in the requirements of Corrective Actions schools and the roles/responsibilities of Distinguished Educators (DEs) and District Assistance Teams (DATs).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/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.

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State
Certification of School Personnel C Practitioner
Teacher Licensure Policy (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. This Practitioner Teacher policy provides for a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrate required content knowledge, instructional expertise, and classroom management skills. Practitioner teachers who complete the required course requirements (or equivalent contact hours)

and demonstrate proficiency during their first year of teaching can obtain a Level C Professional License after successfully completing all requirements of the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS). A practitioner teacher's teaching experience, while holding a Practitioner Teacher license, will count toward the three years of teaching experience requirement that is needed to move from a Type C certificate to a Type B 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

* * *

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:

**Bulletin 746C Louisiana Standards for
State Certification of School**

PersonnelC Practitioner Teacher Licensure Policy

A Practitioner Teacher license, renewable on a yearly basis for a maximum of three years, will be granted to those candidates who meet all entrance requirements for a Practitioner Teacher Program, who are accepted into and enrolled in an approved Practitioner Teacher Program, and who have a teaching assignment in a state-approved Louisiana school in the area of certification being studied. Issuance of Practitioner Teacher licenses will require verification from the program provider and the employing system/school.

Minimum admission requirements for the Practitioner Teacher Program stipulate that the candidate hold an undergraduate degree from a regionally accredited university, possess the required 2.5 GPA, and pass the Pre-Professional Skills Test and Content Specialty Exam of the PRAXIS.

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

If a candidate withdraws or is dropped from the Practitioner Teacher Program, the Practitioner Teacher license is no longer valid. 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. All program requirements must be completed within the three-year period of the license.

A practitioner teacher may complete all requirements of the practitioner program in less than three years. Once a practitioner teacher completes ALL requirements of the Practitioner Teacher Program and is recommended by the program provider, he may apply for a Type C Teaching Certificate.

A practitioner teacher's teaching experience, while holding a Practitioner Teacher license, will count toward the three years of teaching experience requirement that is needed to move from a Type C certificate to a Type B certificate.

* * *

Interested persons may submit comments until 4:30 p.m., July 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 746C Louisiana Standards for
State Certification of School PersonnelC Practitioner
Teacher Licensure Policy**

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)

This policy provides for a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrated required content knowledge, instructional expertise, and classroom management skills.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy should result in an increase in the number of certified teachers available to teach grades K-12 in Louisiana.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0105#018

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression Adoption Procedures (LAC 28:XXXIX.305)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:XXXIX. Because of recent changes in the High Stakes Testing Policy, school systems have been unable to keep their Pupil Progression Plans up to date. The new revisions would give the local school systems flexibility in revising their plans when the revisions are mandated by the SBESE.

Title 28 EDUCATION

Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression

§305. Adoption Procedures

A. Initial Adoption by the Local School Board

1. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meeting Law [R.S. 42:4:2(A)(2); Attorney General's Opinion Number 79-1045].

2. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan has been adopted and approved, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

3. The statements defining the committee-selection process and the Pupil Progression Plan are public documents that must be handled within the guidelines of the Public Records Act (R.S. 44:1-42).

B. Locally Initiated Interim Revisions

1. School systems/school boards will comply with the same procedure as for initial adoption by the local school board.

C. State Mandated Interim Revisions

1. School systems will be notified of any policy change that will affect their currently approved Pupil Progression Plan within 15 working days after the Notice of Intent is passed by the State Board of Elementary and Secondary Education.

2. School systems/school boards shall develop a procedure for informing the public of the proposed policy change.

3. After final adoption as a rule by SBESE, school boards shall adopt and incorporate the state mandated policy changes into their current Pupil Progression Plan within 30 working days after notification of said changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:

§307. Submission Process

A. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance. Documentation of input in the plans development by educators and parents as well as public notice prior to local board approval and locally initiated revisions (including dates and locations) must be submitted.

1. Interim Revisions: Locally Initiated and State-Mandated

a. Resubmission of two copies of the local board approved pages is made to the Department of Education.

b. Signatures of the local school board president and superintendent are required.

c. The revisions are incorporated into the Pupil Progression Plan at both the local and state level.

B. 1. - 4. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

Interested persons may submit comments until 4:30 p.m., July 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 1566C Guidelines for Pupil Progression Adoption Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no increase in cost to state or local governmental units. School systems may experience a slight savings because of the elimination of one level of public review requiring public notice.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Benefits to schools and students include better accountability and a more informed general public.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0105#017

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**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, hereby announces its intention to revise its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**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:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 20, 2001, to Jack L. Guinn, Executive Director, Office of Student Finance Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commission Bylaws**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No cost is anticipated to implement the proposed rule change. The rule further defines the discretionary authority of the Executive Director in the day-to-day operations of the agency.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

No impact on non-governmental groups is anticipated to result from this action.

**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
0105#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**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) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

*High School Graduate*C for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a high school meeting the eligibility requirements of these rules or a student who has completed at least the final two years of a BESE-approved home study program and has reported such to BESE. A student who graduates at any time during an *academic year* (high school) shall be deemed to have graduated on May 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), LR26:1262 (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:

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

§703. Establishing Eligibility

A. - G.I.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:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 20, 2001, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)C Early High School Graduation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be an increase in state expenditures for TOPS payments because early graduates may elect to remain in state rather than accept aid offers from out-of-state

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS recipients who graduated early from high school will be permitted to enter college the fall semester or quarter after their high school graduation.

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
0105#065

H. Gordon Monk
Staff Director
Legislative

NOTICE OF INTENT

**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) announces its intention to amend 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., June 20, 2001, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)C Scholarship/Grant Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No change in cost to the program is anticipated to result from these revisions.

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 clarify eligibility requirements of the Rockefeller State Wildlife Scholarship, make the TOPS home study requirements consistent with the statute and clarify the procedure for revising core curriculum.

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
0105#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
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, hereby announces its intention to revise its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

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, LR 23:1656 (December 1997), amended LR 27:190 (February 2001), LR 27:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 20, 2001, to Jack L. Guinn, Executive Director, Office of Student Finance Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Authority Bylaws

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No cost is anticipated to implement the proposed rule change. The rule adds two members to the Executive Committee.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on non-governmental groups is anticipated to result from this action.

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
0105#064

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.107, 307)

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., June 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)

The rule clarifies the restrictions on the allocation of tuition assistance grants (TAGs) for START accounts. This change does not increase costs to the program

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

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule clarifies restrictions on the allocation of tuition assistance grants (TAGs) for START accounts.

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
0105#062

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.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). This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

**Part VI. Student Financial 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:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 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)

The rule declares the interest rate for START accounts. This change does not increase costs to the program.

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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule provides the interest rates payable in the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

George Badge Eldredge
General Counsel
0105#063

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**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 gives notice that rulemaking procedures have been initiated to amend the 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 proposed 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.

This proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part 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:

§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:

A public hearing will be held on June 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 AQ216. Such comments must be received no later than July 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 AQ216.

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: Asbestos-Containing Materials in
Schools and State Buildings**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

As a result of this rule, state governmental units will realize an estimated savings of approximately 6 - 7.5 million dollars through the elimination of 3-year asbestos reinspections in state government buildings. These revisions will have no impact on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These revisions 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)

These revisions will cause direct costs to those consulting firms that would have been awarded 3-year asbestos reinspection contracts. These firms may lose a total of 6 - 7.5 million dollars in revenues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These revisions will have no effect on competition, but they will cause loss of employment to some asbestos inspectors and/or asbestos management planners, and loss of contractual funds to those consulting firms not awarded reinspection contracts.

James H. Brent, Ph.D.
Assistant Secretary
0105#092

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference 40 CFR Part 51
(LAC 33:III.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 gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.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 proposed 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. The basis and rationale for this proposed 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 proposed rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43C Capture Efficiency Test Procedures

§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:

A public hearing will be held on June 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 AQ213. Such comments must be received no later than July 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 AQ213.

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: Incorporation by Reference 40
CFR Part 51**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings to state or local governmental units for this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to persons or non-governmental groups as a result of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposal will have no effect on competition or employment.

James H. Brent, Ph.D.
Assistant Secretary
0105#093

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Minimum Offset Ratio (LAC 33:III.504)(AQ212)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.504 (Log #AQ212).

This rule proposes to revise the minimum offset ratios in LAC 33:III.504. Table 1. Major Stationary Source/Major Modification Emission Thresholds. For a nonattainment area with a classification of serious for ozone, the minimum offset ratio for volatile organic compounds (VOC) will be 1.20 to 1 with LAER (Lowest Achievable Emission Rate) or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for VOC will be 1.30 to 1. This rule also proposes to add a minimum offset ratio for nitrogen oxides (NO_x). For a

nonattainment area with a classification of serious for the pollutant, ozone, the minimum offset ratio for NO_x will be 1.20 to 1 with LAER or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for NO_x will be 1.30 to 1. 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, which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Therefore, identification and promulgation of regulations to implement emission reduction controls are necessary. Urban Airshed Modeling (UAM) indicates that a reduction in NO_x emissions and further reduction in VOC emissions are required in at least the 5-parish area to lower ozone levels. 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 ozone NAAQS. This revision to the minimum offset ratios is only one measure identified to reduce emissions. The basis and rationale for this proposed 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)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

* * *

[See Prior Text in A]

1. For an area that is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for ozone, VOC and NO_x are the regulated pollutants under this Section.

* * *

[See Prior Text in A.2 - D.2]

3. Notwithstanding Subsection D.2 of this Section, in the case of any major stationary source that emits or has the potential to emit 50 tons per year or more of VOC or NO_x and is located in an area classified as serious, if the owner or operator of the source elects to offset the emissions increase by a reduction in emissions of VOC or NO_x from other operations, units, or activities within the source at an internal offset ratio of at least 1.40 to 1 for VOC or NO_x, then the requirements for LAER shall not apply.

* * *

[See Prior Text in D.4 - F]

1. Emissions reductions claimed as offset credit for significant NO_x or VOC increases may be from decreases of either NO_x or VOC, or any combination thereof. Interprecursor trading is allowed for NO_x and VOC offsets (e.g., using a NO_x credit to offset a VOC emissions increase and vice versa).

* * *

[See Prior Text in F.2 - G.Major Stationary Source.b]

c. A major stationary source that is major for VOC or NO_x shall be considered major for ozone.

* * *

[See Prior Text in G.Major Stationary Source.d—Visibility Impairment]

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 AQ212. Such comments must be received no later than July 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 AQ212.

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: Minimum Offset Ratio

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

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 exact effect this rule will have on a facility will vary. If a major source is not planning to apply for a permit that will involve significant increase in emissions, or shows sufficient contemporaneous reductions, the rule will have no effect at all. However, if such a facility is applying to increase VOC or NO_x emissions beyond the major modification threshold, then Nonattainment New Source Review (NNSR) will be triggered. The source must then offset, i.e. use Emission Reduction Credits (ERCs), the emissions increase at the proposed rate and apply Lowest Achievable Emissions Rate (LAER) or apply ERCs depending on the circumstances. Costs, if any, are dependent on the future plans of individual firms and are not further quantifiable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

James H. Brent, Ph.D.
Assistant Secretary
0105#091

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

* * *

[See Prior Text in Note 1 – Note 2]

³ For serious and severe ozone nonattainment areas, the increase in emissions of VOC or NO_x resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons.

⁴ Consideration of the net emissions increase will be triggered for any project that would increase VOC or NO_x emissions by five tons or more per year, without regard to any project decreases, or for any project that would result in a 25 ton or more per year cumulative increase in emissions after November 15, 1992, without regard to project decreases.

VOC = volatile organic compounds

NO_x = oxides of nitrogen

CO = carbon monoxide

SO₂ = sulfur dioxide

PM₁₀ = particulate matter of less than 10 microns in diameter

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:

A public hearing will be held on June 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

NOTICE OF INTENT

* * *

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Permit Procedures for New Emissions Sources and Major
Modifications in Specified Parishes
(LAC 33:III.509 and 510)(AQ218)

Under the authority of the Environmental Quality Act,
R.S. 30:2001 et seq., and in accordance with the provisions
of the Administrative Procedure Act, R.S. 49:950 et seq., the
secretary gives notice that rulemaking procedures have been
initiated to amend the Air Quality regulations, LAC
33:III.509 and 510 (Log #AQ218).

This rule proposes to establish a control technology
requirement for NOx and VOC emissions at new emissions
units located at new and existing major stationary sources, as
well as mandate an offset requirement for major
modifications as defined in LAC 33:III.509. This proposed
rule would be applicable to sources located in parishes
where emissions must be regulated to such an extent as to
maintain the attainment status of that parish, or expedite or
maintain the attainment status of an adjacent or nearby
parish. Namely, these parishes are Beauregard, Cameron,
Calcasieu, and Jefferson Davis. Calcasieu Parish
experienced six ozone exceedance days during the years
1998, 1999, and 2000. Four or more exceedances during any
consecutive 3-year period constitute a violation of the ozone
National Ambient Air Quality Standard (NAAQS). In
accordance with contingency measures established in the
approved air quality Maintenance Plan for Calcasieu Parish,
a control strategy must be developed and appropriate control
measures implemented in an effort to maintain Calcasieu's
current attainment designation and to protect air quality in
the area. The basis and rationale for this proposed rule are
to protect and maintain the air quality in Calcasieu Parish
and the adjoining parishes of Beauregard, Cameron, and
Jefferson Davis and to continue to meet the National
Ambient Air Quality Standard for ozone.

This proposed rule meets an exception listed in R.S.
30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report
regarding environmental/health benefits and social/economic
costs is required. This proposed rule has no known impact
on family formation, stability, and autonomy as described in
R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§509. Prevention of Significant Deterioration

* * *

[See Prior Text in A - B.Baseline Area.1]

2. All parishes are designated as attainment for all
pollutants except the following parishes are designated
nonattainment for ozone only:

Table with 1 column and 5 rows listing parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge.

[See Prior Text in B.Baseline Concentration - S.4]

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

HISTORICAL NOTE: Promulgated by the Department of
Environmental Quality, Office of Air Quality and Nuclear Energy,
Air Quality Division, LR 13:741 (December 1987), amended LR
14:348 (June 1988), LR 16:613 (July 1990), amended by the Office
of Air Quality and Radiation Protection, Air Quality Division, LR
17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May
1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR
24:1284 (July 1998), repromulgated LR 25:259 (February 1999),
amended by the Office of Environmental Assessment,
Environmental Planning Division, LR 26:2447 (November 2000),
LR 27:

§510. New Emissions Sources and Major
Modifications in Specified Parishes

A. Applicability. The provisions of this Section shall be
applicable in the following parishes: Beauregard, Calcasieu,
Cameron, and Jefferson Davis.

B. Control Technology Requirements. The provisions of
this Section apply to the construction and reconstruction of
emissions units at new or existing major stationary sources,
as defined herein, provided such source or modification is
located within a parish specified in Subsection A of this
Section.

1. Maintenance Reasonably Available Control
Technology (MRACT) Requirements

a. The potential to emit of a stationary source shall
be compared to the major stationary source threshold values
listed in Table 1 of this Section to determine whether the
source is major.

b. All new emissions units at new or existing major
stationary sources shall apply MRACT requirements for
each pollutant subject to regulation under this Section that it
would emit, or have the potential to emit, in amounts greater
than or equal to the de minimus value specified in Table 1 of
this Section. The de minimus value shall represent the
potential to emit of the emissions unit only and shall not
consider any contemporaneous increases and decreases at
the facility.

c. Approval to construct shall become invalid if
construction is not commenced within 18 months after
receipt of such approval, if construction is discontinued for a
period of 18 months or more, or if construction is not
completed within a reasonable time. For a phased
construction project, each phase must commence
construction within 18 months of the projected and approved
commencement date. The department may extend the 18-
month period upon a satisfactory showing that an extension
is justified.

d. For phased construction projects, the
determination of the MRACT shall be reviewed and
modified, as appropriate, at the latest reasonable time but no
later than 18 months prior to commencement of construction
of each independent phase of the project. At such time the
owner or operator of the applicable stationary source may be
required to demonstrate the adequacy of any previous
determination of MRACT.

e. If the owner or operator applies for an extension,
as provided for in Subsection B.1.c of this Section, and the
new proposed date of construction is greater than 18 months
from the date that the approval to construct would become

invalid, the determination of the MRACT shall be reviewed and modified as appropriate before such an extension is granted. At such time the owner or operator may be required to demonstrate the adequacy of any previous determination of the MRACT.

2. Source Information. The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to the Office of Environmental Services, Permits Division, in order to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

a. a description of the nature, location, design capacity, and typical operating schedule of the emissions unit(s), including specifications and drawings showing the design and plant layout;

b. a detailed schedule for construction of the emissions unit(s); and

c. a detailed description of the planned system of emission controls to be implemented, emission estimates, and other information necessary to demonstrate that the MRACT will be applied and maintained.

3. Exemptions. The following emissions units are exempt from the control technology requirements of this Subsection:

a. those that are subject to the Best Available Control Technology (BACT) requirements of the Prevention of Significant Deterioration (PSD) program, LAC 33:III.509;

b. those that are subject to control requirements of a Maximum Achievable Control Technology (MACT) standard under the national emission standard for hazardous air pollutants in 40 CFR part 61 or part 63 (with regard to VOC control only); and

c. those that trigger control requirements of any section in LAC 33:III.Chapter 21 (with regard to VOC control only).

C. Offset Requirements. The provisions of this Subsection apply to major stationary sources and major modifications, as provided in LAC 33:III.509.I, provided such source or modification is located within a parish specified in Subsection A of this Section.

1. Emission Offsets

a. The emissions increase from a major modification as defined in LAC 33:III.509 shall be offset in accordance with the provisions of this Section at the ratio specified in Table 1 of this Section.

b. All emission offsets approved by the department shall meet the following criteria:

i. all emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interprecursor trading, for example, using a NO_x credit to offset a VOC emission increase, is not allowed;

ii. all emission reductions claimed as offset credit must have occurred on or after June 2, 1997;

iii. all emission reductions claimed as offset credit shall be enforceable prior to commencement of construction of the major modification. All emission reductions claimed as offset credit shall occur prior to or concurrent with the start of operation of the proposed major stationary source;

iv. offset credit for any emission reduction can be claimed only to the extent that the department has not relied on it in previously issuing any permit;

v. the emission limit for determining emission offset credit involving an existing fuel combustion source shall be the most stringent emission standard that is allowable under the applicable regulation for this major stationary source for the type of fuel being burned at the time the permit application is filed. If the existing source commits to switch to a cleaner fuel, emission offset credit based on the difference between the allowable VOC emissions of the fuels involved shall be acceptable only if an alternative control measure, which would achieve the same degree of emission reductions should the source switch back to a fuel that produces more pollution, is specified in a permit issued by the department;

vi. emission reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are permanent, quantifiable, federally enforceable, and in accordance with the State Implementation Plan (SIP);

vii. emission offsets shall be obtained from the same source or other sources located in the parishes subject to Subsection B of this Section; and

viii. emission reductions otherwise required by the Act or by state regulations shall not be credited for purposes of satisfying the offset requirement. Incidental emission reductions that are not otherwise required by the Act or by state regulations may be creditable as offsets.

2. Source Information. The owner or operator desiring to utilize emission reductions as an offset shall submit to the Office of Environmental Services, Permits Division the following information:

a. a detailed description of the process to be controlled and the control technology to be used;

b. emission calculations showing the types and amounts of actual emissions to be reduced; and

c. the effective date of the reduction.

D. Compliance Schedule. For affected sources that have submitted or will submit a permit application prior to final promulgation of this Section that entails either a major modification as defined in LAC 33:III.509 or construction or reconstruction of a new emissions unit, the offset requirements of Subsection C of this Section and/or the MRACT requirements of Subsection B of this Section shall not apply if the application has been deemed administratively complete in accordance with LAC 33:III.519.A prior to the final promulgation date of this Section.

E. Definitions. The terms in this Section are used as defined in LAC 33:III.111 or 504.G, with the exception of those terms specifically defined as follows:

Emissions Unit—any part of a major stationary source, as defined herein, that emits or would have the potential to emit any pollutant regulated under this Section.

Existing—a major stationary source or emissions unit that does not meet the definition of *new*.

Maintenance RACT (MRACT)—reasonably available control technology for new emissions units in parishes designated by the department.

a. Includes control devices, systems, process modifications, or other apparatus or techniques that are reasonably available, as determined by the department on a case by case basis, taking into account:

i. the necessity of imposing such controls in order to attain and maintain a national ambient air quality standard in the parishes in question; and

ii the energy, environmental, and economic impact of such controls.

b. In no event shall application of reasonably available control technology result in emissions of any pollutant that would exceed the emissions allowed by an applicable standard as set forth in sections 111 and 112 of the Act or LAC 33:III.5109.A, if applicable. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, or operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of MRACT. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means that achieve equivalent results.

Major Stationary Source—

a. any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, or has the potential to emit, any regulated pollutant at or above the threshold values defined in Table 1 of this Section; or

b. any physical change that would occur at a stationary source not qualifying under Subparagraph a of this definition as a major stationary source, if the change would constitute a major stationary source by itself;

c. a stationary source shall not be a major stationary source due to fugitive emissions, to the extent that they are quantifiable, unless the source belongs to:

i. any category in Table A in LAC 33:III.509.B; or

ii. any other stationary source category that, as of August 7, 1980, is being regulated under section 111 or 112 of the Act;

d. a stationary source shall not be a major stationary source due to secondary emissions.

New—a major stationary source or emissions unit for which construction or reconstruction commenced after promulgation of this Section.

Regulated Pollutant—a pollutant listed in Table 1 of this Section.

Pollutant	Major Stationary Source Threshold Values (tons/year)	New Emissions Unit De Minimus Trigger Values (tons/year)	Offset Ratio Minimum
VOC	100	25	1.10 to 1
NO _x	100	25	1.10 to 1

VOC = volatile organic compounds

NO_x = nitrogen oxides

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 June 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 AQ218. Such comments must be received no later than July 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 AQ218.

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: Permit Procedures for New Emissions Sources and Major Modifications in Specified Parishes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

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 exact effect this rule will have on a facility will vary. If a major source is not planning to construct a new emissions unit that can emit NO_x or VOC greater than the de minimus level, the rule will have no effect at all. However, if such a facility wishes to install a new emissions unit that can emit NO_x or VOC greater than the de minimus level, the unit must be designed with reasonably available control technology (RACT), as determined on a case-by-case basis by the Department. Costs of RACT technology may vary considerably due to factors such as the type and size of emissions unit, the potential for multiple control strategies, etc.

The offset component of the rule will apply to major stationary sources and major modifications as described in LAC 33:III.509.I, and require facilities to offset the increase that triggered the major modification at a ratio of 1.10 to 1. If an existing facility has made past reductions that could qualify as Emission Reduction Credits (ERC), no additional cost will be incurred. If no such reductions exist, a facility would have to purchase ERC from another company. The potential supply of ERC in the Calcasieu area cannot be predicted, as the specific emission reductions that are eligible to be banked as ERC have not been catalogued. Consequently, an ERC cost would be difficult to predict, except that it should be comparable to that in the Baton Rouge area (\$5000 per ERC).

Costs, if any, are dependent on the future plans of individual facilities and are not further quantifiable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

James H. Brent, Ph.D.
Assistant Secretary
0105#090

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

RCRA XCAccumulation Time
(LAC 33:V.1109 and 2231)(HW077*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.1109 and 2231 (Log #HW077*).

This proposed rule is identical to federal regulations found in 64 FR 64503-64509, 12/5/97, and 65 FR 12378-12398, 3/8/00, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The proposed rule covers the adoption of rules in the RCRA X package for authorization for portions of the RCRA C program. The specific topic includes the following title: 180-day Accumulation for Waste Water Treatment Sludges from Metal Finishing. The rule also includes changes to reflect the delegable citations for the issuance of the general and site-specific variances. The hazardous waste regulations for the state must be equivalent to those of the federal in order for the state to be authorized for the new portions of the RCRA program. The basis and rationale for this proposed rule are to adopt recently promulgated regulations that are equivalent or more stringent in order for the state to maintain equivalency to the RCRA C Program.

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

costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 11. Generators

Subchapter A. General

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.9]

10. A generator who generates 1000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

a. the generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 wastestream or otherwise released to the environment prior to its recycling;

b. the F006 waste is legitimately recycled through metals recovery;

c. no more than 20,000 kilograms of F006 waste are accumulated on-site at any one time; and

d. the F006 waste is managed in accordance with the following:

i. the F006 waste is placed:

(a) in containers and the generator complies with the applicable requirements of LAC 33:V.Chapter 43.Subchapters H, Q, R, and V; and/or

(b) in tanks and the generator complies with the applicable requirements of LAC 33:V.Chapter 43.Subchapters I, Q, R, and V, except LAC 33:V.4442 and 4445; and/or

(c) in containment buildings and the generator complies with LAC 33:V.Chapter 43.Subchapter T, and has placed its professional engineer certification that the building complies with the design standards specified in LAC 33:V.4703 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(i) a written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

(ii) documentation that the unit is emptied at least once every 180 days;

ii. in addition, such a generator is exempt from all the requirements in LAC 33:V.Chapter 43.Subchapters F and G, except for LAC 33:V.4379 and 4385;

iii. the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

iv. while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste", and

v. the generator complies with the requirements for owners or operators in LAC 33:V.Chapter 43.Subchapters B and C, with LAC 33:V.4319, and 2245.E.

11. A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of Subsection E.10.a - d of this Section.

12. A generator accumulating F006 waste in accordance with Subsection E.10 and 11 of this Section who accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of LAC 33:V.Chapters 11, 15-21, 23-29, 31-37, and 43 (except LAC 33:V.4301.D and E) and the permit requirements of LAC 33:V.Chapters 3-7 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the administrative authority if F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the administrative authority on a case-by-case basis.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:0000 (May 2001), LR 27:0000 (May 2001), LR 27:

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2231. Variance from a Treatment Standard

[See Prior Text in A - B]

C. After receiving a petition for a variance from a treatment standard, the administrative authority may request any additional information or samples that he or she may require to evaluate the petition. Additional copies of the complete petition may be requested as needed to send to affected states and regional offices.

[See Prior Text in C.1 - 2]

D. The EPA administrator and/or the Office of Environmental Services, Permits Division will give public notice of the intent to approve or deny a petition and will provide the person requesting the variance and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the variance, the opportunity to submit written comments on the request and the conditions of the variance, allowing a 30-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the 30-day comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the variance request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.) The final decision on a variance from a treatment standard will also be published.

[See Prior Text in E - F]

G Based on a petition filed by a generator or treater of hazardous waste, the administrative authority may approve a site-specific variance from an applicable treatment standard if:

[See Prior Text in G.1 - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), LR 27:

A public hearing will be held on June 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 HW077*. Such comments must be received no later than June 25, 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. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW077*.

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

0105#014

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Planning and Budget

Annual Program Evaluation Reports (LAC 4:I.Chapter 1)

In accordance with provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Division of Administration, has initiated procedures to amend LAC 4:I.Chapter 1 regarding the Annual Program Evaluation Reports. These Rules were amended by Act 911 of 1995, effective June 28, 1995.

Title 4

ADMINISTRATION

Part 1. General Provisions

Chapter 1. Annual Program Evaluation Reports

§101. Reports from Undersecretaries to Governor

A. Revised Statutes 36:8 (added by Act 160 of 1982 and amended by Act 230 of 1987 and Act 911 of 1995, requires undersecretaries, prior to November twenty-fifth of each year, to submit to the departmental secretary an annual report summarizing the activities of his office relating to management and program analysis. R.S. 36:8 also requires the departmental secretary to submit the report to the governor, commissioner of administration, House Committee on Appropriations, Senate Committee on Finance, and the standing committee of each house of the legislature having responsibility for oversight of the department, as provided in R.S. 49:968, prior to December fifth of each year. This report is to be contained on a form prepared by the Division of Administration. The report must contain the following items as required by R.S. 36:8:

1. a description of significant problems, deficiencies, and abuses relating to the administration and management of programs and operations within the department;
2. corrective measures recommended by the office for those problems identified pursuant to Paragraph 1;
3. an identification of significant recommendations in previous reports on which no action has been taken;
4. a summary of reports made to the secretary pursuant to this Section; and
5. a list and brief summary of program evaluations made by the office.

B. The following forms (§§103-111) have been adopted by the Division of Administration to adhere to the requirements of R.S. 36:8 for annual program evaluation reports, commonly known as "Act 160 Reports".

C. The Division of Administration promulgated as rules in the December, 1982 *Louisiana Register* the use of four forms for agencies to use to meet the reporting requirements of Act 160 of 1982. The use of a fifth form to capture the required "identification of significant recommendations in previous reports on which no action has been taken" was promulgated as rule in the February, 1984 *Louisiana Register*. Therefore, annual program evaluation reports must include Forms 160-1, 2, 3, 4, and 5 (modified for the appropriate reporting period), which follow.

D. It is understood that the intent of the Act 160 legislation was to provide undersecretaries in each department with a tool for internal planning, management, and control as well as to provide appropriate persons in the House and Senate, the commissioner of Administration and the governor with program information. The submission of Forms 160-1 through 5 is an indication of the fulfillment of the role of the undersecretary as defined in R.S. 36:8, and can be evidence to the public of efforts to make state government more efficient and effective. Routine monitoring of programs, institutions, etc. does not need to be included, nor should actual reports be attached in lieu of summarized information on the forms. The "Act 160 Report" should include only significant problems, reports, and evaluations (generally distinguished by the focus on the impact or level of success of a particular program or project).

E. If a department has not identified any significant problems in its administration and management of programs and operations, has made or acquired no evaluations of programs within its agencies, and has not had any significant report made to the undersecretary during the reporting period, the undersecretary shall submit a letter to the House Committee on Appropriations, Senate Committee on Finance, standing committee of each house of the legislature having responsibility for oversight of the department, governor, and commissioner of Administration indicating such in lieu of Forms 160-1 through 5 by the December fifth deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:8, R.S. 36:53 and R.S. 36:629(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 10:76 (February 1984), LR 27:

§103. Form 160-1C Significant Problem, Deficiency, or Abuse

Form 160-1 Department _____
Reporting Period _____

1. Significant Problem, Deficiency, or Abuse Relating to the Administration or Management of Programs and Operations Within the Department. (Complete one sheet per problem.)

A. Problem Description

1. What is the nature of the problem?
2. What organizational unit in the department is experiencing the problem?
3. Who else is affected by the problem?
4. How long has the problem existed?
5. What are the costs and consequences of failure to correct the problem?

B. Corrective Measures

1. What corrective measures are recommended to alleviate the problem?
2. What are the criteria for improvement?
3. What is the expected time frame for corrective measures to be implemented?
4. What is the expected time frame for improvements to occur?
5. What are the costs of implementing the corrective measures?
6. Will additional personnel or funds be required to implement the recommended measures? If so, specify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration in LR 8:644 (December 1982), amended LR 27:

§105. Form 160-2C Reports to the Secretary

Form 160-2 Department _____
Reporting Period _____

Reports to the Secretary
Reports completed between November 25 of the preceding fiscal year and November 25 of the current fiscal year. List titles below and complete a summary sheet for each. (Use Form 160-4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), revised LR 27:

§107. Form 160-3C List of Program Evaluations

Form 160-3 Department _____
Reporting Period _____

List of Program Evaluations
Evaluations completed between November 25 of the preceding fiscal year and November 25 of the current fiscal year. List titles below and complete a summary sheet for each. (Use Form 160-4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), revised LR 27:

§109. Form 160-4C Summary of Evaluation or Report

Form 160-4 Department _____
Reporting Period _____

SUMMARY OF EVALUATION OR REPORT

Title:

Entity Evaluated/Reported:

Why was Evaluation/Report initiated?

Questions/Objectives of the Evaluation/Report:

Major Findings and Conclusions:

Major Recommendations:

What action was taken in response to the Evaluation/Report?

Contact person for more information:

Name _____ Agency _____

Phone # _____ Address _____

Fax # _____ E-mail Address _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 8:644 (December 1982), amended LR 27:

§111. Form 160-5C Significant Recommendations

Department _____

Reporting Period _____

Significant Recommendations from Previous Reports with No Action Taken		
Program/Project	Recommendations	Reason(s) No Action Taken

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:76 (February 1984), amended LR 27:

Family Impact Statement

The proposed amendment to LAC 4:I.Chapter 1 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Carolyn Lane through the close of business on April 25, 2001, at P.O. Box 94095, Baton Rouge, LA 70804-9095.

Ray Stockstill
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Annual Program Evaluation Reports**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units as a result of this action.

Preparation of annual program evaluation reports by department undersecretaries has been mandated since 1982. Current rule reflects provisions of Act 160 of 1982 (which added R.S. 36:8). R.S. 36:8 was revised by Act 911 of 1995 to change deadlines for submission of annual program evaluation reports, make submission of annual program evaluation reports by department secretaries mandatory rather than optional, and revise and clarify to which entities and persons the department report must be submitted. Proposed rule revisions would reflect the changes made by Act 911 of 1995.

Since Act 911 of 1995 made submission of these reports (prepared by undersecretaries) by department secretaries to certain executive and legislative entities mandatory rather than discretionary, departments that previously opted not to submit reports now must do so. However, copying and distributing the reports should impose no significant costs on state agencies.

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 as a result of this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed action will result in no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

Only state government entities would be directly affected by this proposed action. For those government groups, no additional forms or documentation is required. Preparation of annual program evaluation reports by department undersecretaries has been mandated since 1982. Current rule reflects provisions of Act 160 of 1982 (which added R.S. 36:8). R.S. 36:8 was revised by Act 911 of 1995 to change deadlines for submission of annual program evaluation reports, make submission of annual program evaluation reports by department secretaries mandatory rather than optional, and revise and clarify to which entities and persons the department report must be submitted. Proposed rule revisions would reflect the changes made by Act 911 of 1995.

It is possible that program evaluations and recommendations contained in these reports may result in costs and/or economic benefits to non-governmental groups or persons directly affected by the program evaluations and recommendations reported in the mandated reports. However, implementation of this rule change regarding the preparation and submission of these reports will result in no direct costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed action has no estimated effect on competition and employment.

It is possible that program evaluations and recommendations contained in these reports may have an effect on competition and employment. However, implementation of

this rule change regarding the preparation and submission of these reports will have no direct effect on competition and employment.

Whitman Kling
Undersecretary
0105#088

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Planning and Budget**

**Repeal of Planning and Development District Program
(LAC 4:VII.Chapter 7)**

Under the authority of R.S. 39:21, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of Planning and Budget has initiated procedures to repeal LAC 4:VII.Chapter 7.

The rule was promulgated to establish guidelines for distribution of a one-time appropriation to the state's regional planning and development districts. This appropriation was part of Act 13 of 1982, the general appropriation act of 1982. The statutory provisions authorizing promulgation of the Planning and Development District Program rules (R.S. 49:1051, 1053, and 1054) were repealed by Act 765 of 1986, effective July 1, 1986.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 7. State Planning Office

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1051, 1053, 1054. R.S. 49:1051 to 1057, regarding the Louisiana State Planning Office, were repealed by Act 765 of 1986, effective July 1, 1986; current statutory sections, R.S. 49:1051 et seq., contain provisions related to the Louisiana Geographic Information System. Rule repeal is promulgated in accordance with R.S. 39:21.

HISTORICAL NOTE: Promulgated by the Office of the Governor, LR 9:12 (January 1983), repealed LR 27:

Interested persons should submit written comments on the proposed rule repeal to Carolyn Lane through the close of business on April 25, 2001, at P.O. Box 94095, Baton Rouge, LA 70804-9095.

Family Impact Statement

The proposed repeal of LAC 4:VII.Chapter 7 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.

Ray Stockstill
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Repeal of Planning and Development
District Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs (savings) to state or local governmental units. This was a one-time distribution of funds, appropriated by Act 13 of 1982. There is no appropriation for this purpose in Act 11 of 2000. There is no funding recommended for this purpose in the FY 2001-2002 Executive Budget; HB 1 of 2001 contains no reference or proposed funding for this purpose.

**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. This was a one-time distribution of funds, appropriated by Act 13 of 1982. There is no appropriation for this purpose in Act 11 of 2000. There is no funding recommended for this purpose in the FY 2001-2002 Executive Budget; HB 1 of 2001 contains no reference or proposed funding for this purpose.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. This was a one-time distribution of funds, appropriated by Act 13 of 1982. There is no appropriation for this purpose in Act 11 of 2000. No funding for this purpose has been requested, budgeted, or appropriated in recent years. This program is not part of the state's base budget. There is no funding recommended for this purpose in the FY 2001-2002 Executive Budget; HB 1 of 2001 contains no reference or proposed funding for this purpose.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment. This was a one-time distribution of funds, appropriated by Act 13 of 1982.

Whitman Kling
Deputy Undersecretary
0105#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health
Center for Environmental Health**

Public Water System Capacity Development
(LAC 48:V.7711, 7713, 7717, and 7719)

Under the authority of R.S. 40:4 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH/OPH) intends to amend the

Public Water System Capacity Development Regulations, LAC 48:V. 7707-7719. These amendments will provide certain exceptions to the existing provisions such that those provisions will not encumber the ability of certain public agencies to expeditiously furnish financial aid to public water systems which qualify for such aid within the constraints required by these agencies, nor will they encumber the DHH/OPH in its implementation of the Capacity Development Strategy.

There are two public agencies, the USDA Rural Utilities Services (RUS) and the Louisiana Community Development Block Grant (LCDBG), which provide financial aid in the form of grants and loans to existing and new public water systems. These agencies have capacity requirements for systems requesting such grants or loans. These proposed amendments preclude the necessity of those systems to submit a business plan (containing capacity requirements) to DHH/OPH for grants and loans from those agencies, since these systems must meet those agency capacity requirements.

This amendment further provides for more brevity and simplification in the business plan required of existing systems. Finally, there are certain clarifications and revisions regarding management training provisions in the Capacity Development Strategy.

In compliance with Act 1183 of the Regular Session of the Louisiana Legislature the impact of this proposed Rule on the family has been considered. The proposed Rule has no known impact on family functioning, stability or autonomy as described in R.S. 49:972.

For the reasons set forth, above, it is proposed to amend LAC 48:V.7707-7719 as follows.

Title 48

**PUBLIC HEALTH - GENERAL
Part V. Preventive Health Services
Subpart XXV. Drinking Water**

**Chapter 77. Drinking Water Program
Subchapter B. Public Water System Capacity
Development**

§7711. Definitions

A. The following terms used in these regulations shall have the following meanings

Public Water System Ca system for the provision to the public of water for potable purposes, through pipes or other constructed conveyances, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year. The term includes:

a. any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

b. any collection or pre-treatment storage facilities not under such control which are used primarily in connection with the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Division of Environmental Health Services,

Office of Public Health, LR 24:1767 (September 1998), amended LR 27:

§7713. New Systems

A. Business Plan. All community and non-transient non-community public water systems wanting to commence operation after January 1, 1999 shall be required to submit a business plan to the department to aid in the department's determination of technical, managerial and financial capacity. Required information for the business plan shall be provided by the department. The Office of Public Health (OPH) will exempt from the requirement for submission of the business plan all new public water systems funded by either the United States Department of Agriculture's (USDA) Rural Utilities Service (RUS) and/or the Division of Administration's (DOA) Louisiana Community Development Block Grant (LCDBG) program, provided those public water systems are certified by RUS and/or LCDGB as meeting the respective agency's minimum capacity requirements. OPH staff will continue to review plans and specifications for all new public water systems.

B. . . .

C. Management Training. As a part of meeting the managerial capacity requirements, all such new public water systems wanting to commence operation after January 1, 1999, must make arrangements to attend the next scheduled training session provided by the state, its contractors or other state recognized trainers for board members/council members/mayors, owners, etc. Such arrangements shall be made upon making application to the department for approval to commence operation.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

E. Approval for Operation. After January 1, 1999, written approval to commence operation, i.e., issuance of the permit to construct and operate, for such new public water systems will be given by the department only after the department is satisfied that technical, managerial, and financial capacity requirements are being met, in addition to all other applicable regulations. The Office of Public Health (OPH) will issue the permit to construct and operate a new public water system funded by the RUS and/or the LCDBG program, provided those public water systems are certified by RUS and/or LCDBG as meeting the respective funding agency's minimum capacity requirements and the plans and specifications are reviewed and approved by OPH staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Division of Environmental Health Services, Office of Public Health, LR 24:1768 (September 1998), amended LR 27:

§7717. Existing Systems

A. Business Plan. All existing public water systems shall be required to submit a shortened and simplified business plan to the department to aid in the department's determination of technical, managerial, and financial capacity. Required information for the business plan will be provided by the department. The department and the concerned parties will revise the content of the business plan, as necessary, to adapt it to the needs of existing system capacity requirements. A grant or a loan from either RUS and/or LCDBG programs will not trigger the requirement for

submission of the business plan. The required capacity assessment of existing systems, including submission of the business plan, will be based on whether the existing water system has been issued an administrative order, and/or is on the significant non-compliers list and/or has had primary MCL violations during the past three years. However, the Office of Public Health (OPH) will exempt from the requirement for submission of the business plan all existing public water systems actively seeking funding by the RUS programs, provided those public water systems are certified by RUS as meeting their minimum capacity requirements. Such plan must be submitted to the department within six months after the initial visit by the designated party of the state who is providing assistance to the public water system in preparation of the business plan.

B. . . .

C. Management Training. As a part of meeting the managerial capacity requirements, all appropriate staff of existing public water systems shall attend a training session provided by the state, its contractors or other state recognized trainers for board members, council members/mayors/owners, etc. Management training for all board members/council members/mayors/owners of existing public water systems will be based on whether their water system has been issued an administrative order, and/or is on the significant non-compliers list and/or has had primary MCL violations during the past three years. The department will continue to encourage attendance on a voluntary basis at management training sessions by board members/council members/mayors/owners of all public water systems. Training sessions shall be provided periodically and appropriate parties as noted above will have the opportunity to attend one of the scheduled sessions within six months after the system has been notified that it is being evaluated for technical, managerial, and financial capacity.

D. Financial Audit. A financial audit will be conducted on the system as one means of determining financial capacity of the public water system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1768 (September 1998), amended LR 27:

§7719. Miscellaneous

A. Evaluations. Evaluations to determine technical, managerial, and financial capacity will be conducted in accordance with a developed strategy prepared by the department in partnership with concerned parties and for which approval has been given by USEPA.

B. Coordination. Implementation of the strategy will be coordinated between the Department staff and contracting parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:1769 (September 1998), amended LR 27:

The Department of Health and Hospitals will conduct a public hearing at 1 p.m. on Friday, June 29, 2001, in Room 118, Blanche Appleby Computer Complex Bldg. (on the Jimmy Swaggert Ministry Campus), 6867 Bluebonnet Blvd.,

Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally and in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule on or before the hearing date. Such comments should be submitted to T. Jay Ray, Manager, DWRLF, Office of Public Health, 6867 Bluebonnet Blvd., Box 8, Baton Rouge, LA 70810 or faxed to (225) 765-5040.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Water System Capacity Development

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no costs or savings to state or local units except for costs involved in the publication of the proposed Notice of Intent (NOI) and the final Rule in the *Louisiana Register* (\$160.00) in fiscal year 2000-2001.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no associated costs to be borne by directly affected persons or non-governmental agencies as a result of this proposed rule.

Public water systems affected by this change would benefit in that they would not be required to submit capacity information to both the state and the funding agencies to qualify for financial aid from the agencies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact is expected on competition and employment.

Madeline W. McAndrew Assistant Secretary 0105#052	H. Gordon Monk Staff Director Legislative Fiscal Office
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NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health Center for Environmental Health

Sanitary Code Water Supplies
(LAC 48:V.Chapter 73)

The Department of Health and Hospitals, Office of Public Health, Center for Environmental Health, proposes to repeal the Rule entitled Water Treatment Plant Operator Certification consisting of the Louisiana Administrative Code, Title 48, Part V, sections 7301 through 7335, and enact a new rule consisting of LAC, Title 48, Part V, Sections 7301 through 7339 authorized by R.S. 40:1148. The Rule is promulgated in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950, et seq.

In order to be in accord with the final guidelines published by the United States Environmental Protection Agency

pursuant to the Safe Drinking Water Act, Section 1419 (42 U.S.C.A. 300 g-8), and as published in the *Federal Register*, February 5, 1999 (Vol. 64, No. 24, pp. 5915-5921), and avoid the loss to the state of 20 percent of its Drinking Water Revolving Loan Fund (DWRLF) allocation, the Center for Environmental Health proposes to adopt the following rule.

Also, under the authority of R.S. 40:4 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. This amendment is necessary to comply with requirements of the U.S. Environmental Protection Agency Safe Drinking Water Act Amendments (SDWAA) of 1996 as published in the *Federal Register*, (Vol. 64, No. 24, pp. 5915-5921) on February 5, 1999.

In order to remove the exemption for systems serving under 500 population, as required by the Federal Operator Certification guidelines, Chapter XII (Water Supplies) is proposed to be amended also.

The following proposed rule amendments which could have a minimal effect on family earnings and budget, they are not expected to have any effect on family stability, functioning, parental rights, authority and responsibility for children.

Title 48

PUBLIC HEALTH-GENERAL

Part V. Preventive Health Services

Subpart 21. Water Treatment Operator Certification Chapter 73. Certification

§7301. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter are defined for the purposes thereof as follows.

Community Sewerage System Any sewerage system which serves multiple connections and consists of a collection and/or pumping/transport system and treatment facility.

Department the Louisiana Department of Health and Hospitals, Office of Public Health.

Person Can individual, a public or private corporation, an association, a partnership, a public body created by or pursuant to state law, the state of Louisiana, an agency or political subdivision of the state, a federally recognized Indian tribe, the United States government, a political subdivision of the United States government, and any officer, employee, or agent of one of those entities.

Operator the individual, as determined by the Committee of Certification, in attendance on site of a water supply system or sewerage system and whose performance, judgment, and direction affects either the safety, sanitary quality, or quantity of water or sewage treated or delivered.

Public Water System Ca system for the provision to the public of water for potable purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7303. Certification Requirements

A. The basic requirements for certification are set forth in R.S. 40:1141-1151.

B. The Operator of any public water system or any community sewerage system shall hold current and valid professional certification(s) of the required category(s) at or above the level for the system/facility. Additionally, an operator shall demonstrate that, when not actually on site at the facility, he is capable of responding to that location within one hour of being notified that his presence is needed.

C. Systems operating multiple shifts are required to have a minimum of one certified operator on each shift. Exact numbers of certified operators required may be determined by the committee of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7305. Categories of Certification

A. Certifications are offered in each of the following areas (categories), of qualification:

1. water production;
2. water distribution;
3. water treatment;
4. wastewater collection;
5. wastewater treatment.

B. Water production certifications are required on all facilities which use groundwater as a source of raw water and which do not alter the physical, chemical or bacteriological quality of the water other than simple disinfection.

C. Water distribution certifications are required on all portions of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.

D. Water treatment certifications are required for all operators of facilities which use surface water and/or groundwater as a source of raw water that involve complex treatment and/or which in some way alters the physical, chemical or bacteriological quality of the water. Water Treatment certification shall not be required for groundwater systems for which the only type of treatment employed is chlorination, and where the well(s) has been determined to be not under the direct influence of surface water.

E. Wastewater treatment certifications are required on all facilities which provide for the treatment of wastewater and the reduction and/or handling of sludge removed from such wastewater.

F. Wastewater collection certifications are required on all components of a sewerage system except for the sewage treatment plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7307. Levels (Classes) of Certification for Types of Facilities

A. Required levels of certification for an operator, based on facility classification, are as follows:

Population Served	Facility Classification
<1,000	Class 1
1,001-5,000	Class 2
5,001-25,000	Class 3
Over 25,000	Class 4

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7309. Operator Qualifications C General (Education/Experience)

A. Whereas R.S. 40:1141-1151 specifies minimum operator qualifications in years, these values have been converted to "points" for ease of integration with continuing education credits and substitutions between education and experience. Operator qualifications for the various levels of certification shall be determined by minimum point values as follows:

Certification Level	Required Points
Op-In-Training	0
Class 1	1
Class 2	2
Class 3	5
Class 4	8

NOTE: A minimum educational requirement of a High School Diploma (or G.E.D.) is applied to ALL levels of certification. Required point values for education and experience are in addition to this minimum level of education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7311. Operator Qualifications C Substitutions/Assignment of Point Values

A. Point values for education, continuing education, and experience are assigned as follows.

1. Education

a. Each year of formal college education (minimum of 30 semester hours) = 1 point

b. Each year of formal graduate level education = 1.5 points

c. Each semester hour (credit) for college-level courses = 0.033 point

d. Each 40-hour qualified, approved training course = 0.10 point

e. Each 8 hours of qualifying, approved continuing education = 0.02 point

f. Each 1 hour of qualifying, approved continuing education = 0.0025 point

2. Experience
 - a. Each year of qualifying operator experience = 1 point
 - b. Each year of qualifying related experience = 0.5 point
 - c. Each year of qualifying supervisory experience = 1.5 points

NOTE: No more than 75 percent of the total required points for any level may be obtained from education or experience alone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7313. Professional Certification

A. All persons seeking professional certification must pass a written examination with a grade of 70 percent or higher, and meet minimum education/experience requirements in the category in which he seeks certification. Exams shall be conducted in the English language.

B. Certificates must be displayed by the holder in a prominent place in the classified facility. Additionally, at such time as a certified operator is issued a certified operator identification card, the operator shall carry his identification card on their person while on duty in the classified facility. Failure to do so may be considered grounds for revocation of the certificate in accordance with R.S. 40:1145(D).

C. Certificates shall be valid only so long as the holder uses reasonable care, judgment, and knowledge in the performance of his/her duties. No certificate will be valid if obtained or renewed through fraud, deceit, or the submission of inaccurate qualification data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7315. Limited Certificates

A. Only those limited certificates issued prior to the effective date of these rules, in compliance with R.S. 40:1141-1152 remain valid, and shall remain valid only for the system in which the operator was previously employed and for the conditions of operations and duties involved on the original effective date of this rule. Limited certificates shall be renewable upon application provided the requirements for renewal without reexamination for certificates of even grade are satisfied. Persons granted limited certificates and renewals of limited certificates shall pay the same fees as are fixed for mandatory certificates of like grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7317. Operator-in-Training

A. Operator-in-Training certificates may be granted to newly hired personnel, who have not previously been certified, or who have not held any type of certification for in excess of two years, and who do not presently qualify for certification. Such individuals may make application for the appropriate category (water, wastewater) of operator-in-training certificate. The certification officer will then begin maintaining records of all approved education, training and experience credits accumulated by the operator-in-training. An operator-in-training certificate shall be valid for a period

of 24 months from the date of issue, and may be renewed in the same manner as provisional or professional certificates. Operators-in-training may not be designated as the operator of the system/facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7319. Provisional Certificate

A. A provisional certificate may be issued to any applicant who successfully passes an examination. Provisional certificates shall not qualify an individual to serve as the operator of a facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7321. Examinations C General

A. The committee of certification has established open examination periods for water and/or wastewater operators to be examined. They are as follows.

1. One annual open exam shall be conducted at the conclusion of the annual Louisiana Conference on Water Supply, Sewerage and Industrial Waste "Short Course," meeting which is held in various locations around the state. This meeting is usually held in March of each year.

2. One open exam shall be conducted at the conclusion of the Louisiana Rural Water Association Annual Conference, usually held in June or July of each year.

3. Other open examinations may be scheduled at other locations as determined by the committee of certification based on their determination of need subject to provisions of §7305 of these rules.

4. Application for examinations to be given following scheduled training courses, seminars, workshops, etc., (as listed in §7329 and §7331 of these rules) will be considered on a case-by-case basis by the committee of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7323. Examinations C Individual Operator

Requirements

A. Individual operators must make written application to the committee of certification to take each examination or series of examinations. The application forms will be made available to the examinee prior to the exam period with ample time given to allow completion prior to the actual exam period. The operator (examinee) carries the responsibility for the accuracy of the information contained in the application.

B. Applicants for certification examinations must pay the prescribed exam fee at the conclusion of testing (see §7333 of these rules).

C. All examinations shall be administered in the English language. Requests for examinations to be administered orally may be considered by the administrator, upon written request by an applicant, submitted at least 30 days in advance, with verifiable proof from a physician that the applicant has a medical condition temporarily preventing him from taking the examination in the conventional manner.

D. Exams shall be taken and passed in sequence from the Class 1 to the Class 4.

E. Applicants may not apply to take or take examinations for certification higher than one level above that for which they are currently qualified.

F. If an applicant takes an examination and fails to attain a passing grade (70 percent or higher), he must wait a minimum of 90 days before he can take another exam in the same category and level. After three failed attempts at the same examination, an applicant will be required to attend a 40-hour training course before retesting will be allowed.

G. All examinations will be graded by Department of Health and Hospitals personnel and retained for two years. The examinee will be notified of the results. Examinations will not be returned to the examinee, but may, upon written request, be reviewed in the Operator Certification Program Office in Baton Rouge within 30 days following receipt of the notification of results.

H. Individuals caught cheating during the operator certification examinations or found to have prejudiced these exams or applications in any way shall be entitled to an administrative hearing before the committee of certification. If the committee finds that valid grounds exist, it shall revoke the subject's current certificate, it may refuse to certify the applicant and it may reject future applications. As provided in the Administrative Procedure Act, an aggrieved party may seek judicial review of the committee of certification's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7325. Application for Certification

A. All applications for certificates shall be addressed to: Administrator, Operator Certification Program, Louisiana Department of Health and Hospitals, Office of Public Health, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. Applications for certificates must be accompanied by the prescribed fees.

B. All initial applications for any category of either new certificates or renewal certificates received subsequent to the effective date of this rule, shall be accompanied by a "Certification Law and Rules Examination" to be completed by the applicant as part of the application process.

C. Applicants who pass the required examinations, and meet the minimum education and experience requirements, and are actively employed by a water or wastewater system, will be notified that they may apply for the earned professional operator certification.

D. Applicants who pass an examination but do not meet the education and experience requirements will be notified of what education and/or experience and/or training is required to qualify. Such applicants, upon payment of the prescribed fee, will be issued a provisional certification in the classification(s) for which they have passed the examination(s). At whatever time the applicant qualifies, an application with the necessary fee must be submitted or re-examination may be required.

E. Individuals who have combined work experience in both water and wastewater may make written application to the certification committee for credit toward certification in either or both of the two categories. The work experience

will be listed in a detailed resumé application which details the overlapping areas of work responsibility. This application will be certified by the immediate supervisor of the individual requesting certification. The committee of certification will rule on each individual application as presented. These applications will be reviewed twice a year by a screening subcommittee composed of members of the operator certification committee.

F. One individual may be designated as the operator over (several) more than one water or wastewater system or district provided that he can demonstrate that he is actively involved on a day-to-day basis in the operation of each of the systems, and is able to respond to the systems locations within one hour of notification that his presence is required.

G. Experience must be in actual water system or sewage system operation or its approved equivalent and must be in the field applying to the respective certificates. Experience as foreman or supervisor in most capacities in water and sewerage systems may be considered acceptable. Experience in purely clerical capacity, such as accounting, bookkeeping cannot be considered as acceptable experience. Experience in narrow technical capacities, such as laboratory technicians or meter readers may be considered for partial credit by the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7327. Renewal and Recertification

A. Renewal Requirements. In order to qualify for renewal in any and all classes, all operators of water and sewerage works shall enumerate, certify and provide evidence that he/she has attended minimum of 8 contact hours of approved operator training for each certification held during the previous two-year certification period, with a total minimum of 16 hours of approved operator training for each category (water or wastewater) in which he was certified during the previous two-year period. Failure to attend the required training or failure to furnish the required information shall constitute grounds for refusal to renew the certificate. Approved training is defined as the completion of any of the training courses listed in §7329. It is strongly recommended that course outlines (or lesson plans) for other proposed in-service training be submitted for approval prior to the proposed date of training.

B. Recertification. Operators for whom certification has been expired in excess of two years are not eligible to renew their license(s), and shall be required to reapply for certification under the provisions of this Rule. In such cases, applicants shall be re-examined and shall demonstrate compliance with appropriate education and experience requirements before any certificates will be issued. In those instances where an operator's license has previously been revoked by the committee, the committee shall recommend any additional requirements for recertification that are deemed appropriate, and rule on the operator's eligibility to reapply for a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7329. Training-General

A. Training Courses Available. In order for the training courses identified in Paragraph B of this Section to be approved by the administrator of the Operator Certification Program for training credits on the individual operator's record, the course must meet the following general requirements.

1. The administrator must have on file a copy of the course outline of the training course, seminar, workshop, etc. to make his approval decision.

2. Information must include dates, place held, sponsoring organization, speakers/instructors and time (length of subject), and target audience (category and levels of certification addressed).

3. No blanket approvals (from year to year) will be given or implied and a separate approval must be given by the Operator Certification Program each time training is given. On doubtful courses, the administrator will bring the matter to the committee of certification for disposition. (An aggrieved applicant may apply for an administrative hearing to be conducted by a panel of the committee of certification.)

4. Operators shall be responsible to assure the sponsoring organization submitting his certified transcript of training credits earned to the administrator.

B. Training courses, short courses, technical sessions, seminars, workshops, etc., recognized by both the committee of certification and Department of Health and Hospitals, OPH include, but are not limited to the following:

1. annual short course of the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes;

2. regional conferences of one or more days sponsored and/or co-sponsored by the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes;

3. American Water Works Association Annual Conferences, technical sessions, seminars and workshops;

4. National Association of Water Companies Annual Conferences seminars and workshops;

5. Southwest Section, American Water Works Association Annual Conference, technical sessions, seminars and workshops;

6. college or university and vocational-technical sponsored water and/or wastewater courses, as approved by the certification committee;

7. Water Environment Federation Annual Conference, regional meetings, technical sessions, seminars and workshops;

8. Louisiana Water Environment Association regional meetings, technical sessions, seminars and workshops;

9. Louisiana Rural Water Association annual training and technical conference, regional meetings, technical sessions, seminars and workshops;

10. Louisiana Environmental Training Center, at University of Louisiana at Lafayette, training courses, technical sessions, seminars and workshops;

11. regional meetings, technical sessions, seminars, workshops and/or training programs, sponsored and/or co-sponsored by the Department of Health and Hospitals, or the Department of Environmental Quality;

12. water and/or wastewater operator training courses approved for certification examinations by the committee of certification;

13. short schools, technical courses, seminars, workshops and training programs sponsored by other states.

C. A water and/or wastewater organization or utility not listed above may apply to the committee of certification for recognition and approval to conduct a training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7331. Examinations in Conjunction with Training Courses

A. Applicants for approved training courses may request that certification exams be conducted following the completion of the course. In order to obtain approval from the committee of certification, the applicant (sponsoring individual or organization) must comply with the following requirements and rules.

B. The applications must be submitted to: Administrator, Operator Certification Program, Louisiana Department of Health and Hospitals, Office of Public Health, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810.

C. Applications must be submitted 30 days prior to the beginning of the course.

D. No exam shall be conducted without prior written approval.

E. Blanket approval for training courses and exams will not be given by the committee of certification, i.e., each training course and each exam period must be approved according to these rules.

F. No exam shall be approved to follow a training course consisting of less than 32 hours. An exception to this rule may be granted to the Louisiana Conference on Water Supply, Sewerage and Industrial Waste as this organization and its sub-organizations comprise the official training arm of the committee of certification.

G. Approval will be given to conduct exams only at the level of training and for areas of instruction given at the training course, i.e., for training in Class I, II, III or IV in production, treatment or distribution, or wastewater collection or treatment.

H. The level and area of training for which the course is designed must be stated in the application.

I. The applicant must submit a detailed course outline to include:

1. the goal of the training course;
2. which operators in water and/or wastewater would benefit from taking the course;
3. each subject to be covered;
4. a formal lesson plan for each subject area to be covered;
5. the number of hours covered in each subject;
6. what references will be supplied in the course;
7. what references and materials the student should bring to the course.

J. The applicant must submit the names of all instructors, and their qualifications, including their education and work experience credentials and their certification levels. Instructors shall possess, at a minimum, a "provisional" certification in the subject area covered; or, shall have completed a qualified instructor training course or equivalent; or, be specifically accepted by the committee based upon their credentials.

K. Only those examinations prepared under the auspices of the administrator and the committee of certification will be recognized for certification.

L. All examinations will be conducted and monitored by members of the staff of the Louisiana Department of Health and Hospitals and/or members of the committee of certification. No exams will be conducted without the presence of a sufficient number of monitors approved by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7333. Examination Fees

A. All fees for examinations shall be paid to the committee of certification.

B. Examination Fees shall be established as authorized by the Legislature, but in no case shall be less than \$5 per exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7335. Certification Fees

A. Certificate fees, in addition to the examination fee, shall be:

1. collected for issuance, renewal and/or reciprocation of all classes of certificates. The amount of the certificate fee shall be as established by the legislature, but in no case shall be less than \$10 for certification in the first category in water and/or sewerage and an additional \$5 for each added category;

2. communities, municipalities, utilities and/or corporations may elect to utilize a flat fee system regarding their employees' certification. For a fee of \$50 per year for either field of water or sewerage or \$100 per year for both, all eligible operators may be certified, either initially or renewed. In addition to the flat fee, there will be a \$5 per certificate charge for each certificate issued. In the instance of the flat fee, the individual operators at each facility will be the responsibility of the principal of the organization and shall be submitted with each renewal (flat fee) payment;

3. duplicate certificates will be issued for a fee of not less than \$5 per certificate.

4. water and wastewater operator certificates will be renewed on a two-year basis, with the fees remaining at the same annual rates as are currently in effect but collected every two years.

5. fees are to be paid in the form of a check or money order made payable to the Committee of Certification, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. In addition to payment of the prescribed fee, the applicant must enumerate, certify and provide evidence that he/she has attended at least 16 hours of approved operator training hours for each field in which certified during the previous two-year period. Failure to attend the required training or failure to furnish the required information shall constitute grounds for refusal to renew the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7337. Reciprocity

A. Reciprocity shall be granted at the discretion of the committee of certification, without examination, to holders of comparable certificates issued by other states, territories, or possessions of the United States. The applicant for a certificate under the reciprocity clause must submit his application on an official application blank, obtainable from the administrator. The application must be accompanied by the appropriate fee. The applicant must submit a copy of his certificate or other proof, satisfactory to the committee of certification that he holds a certificate issued by a governmental agency of another state, territory or possession of the United States. Such certificates must have been received after passage of an examination at least equivalent to that given by the Louisiana committee of certification for the level of competency for which application is made.

B. The burden of proof to submit sufficient information for the committee of certification's consideration shall be upon the applicant. If, after receiving such an application, the committee of certification is satisfied that the applicant qualifies for a certificate, it may, at its discretion award him a certificate in the appropriate grade. A reciprocal certificate will not ordinarily be issued unless the applicant is employed, or has accepted employment, in a Louisiana water or wastewater facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§7339. Notification

A. Failure to receive any notices previously mentioned does not relieve the certificate holder or applicant from complying with the rules of the committee of certification. The burden is upon the certificate holder or applicant to provide the committee of certification with a current mailing address.

B. Any request for applications, training course approvals, reciprocity, etc., and/or questions on operator certification should be addressed to: Administrator, Operator Certification Program, DHH-OPH, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

Proposed amendment to Chapter XII of the Sanitary Code, State of Louisiana reads as follows:

Sanitary Code, State of Louisiana

Chapter XII (Water Supplies)

* * *

12:003-2: Plant Supervision and Control: All public water supplies shall be under the supervision and control of a duly certified operator as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (R.S. 40:1141-1151).

* * *

The Department of Health and Hospitals will conduct a public hearing at 10 a.m. on Friday, June 29, 2001, in Room 118 of the Blanche Appleby Computer Complex Building, 6867 Bluebonnet Boulevard, Baton Rouge. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on or before the hearing date. Such comments should be submitted to G. Wayne McCartney, Administrator, Operator Certification Program, Office of Public Health, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810 or faxed to (225)765-5040.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Sanitary Code C Water Supplies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The DHH-OPH will have to pay a total of approximately \$800 in FY 00-01 funds to the Office of the State Register to have the notice of intent and the final rule published in the *Louisiana Register*.

Water/wastewater systems serving under 500 population which would be added to the requirement for a certified operator, may incur some additional expense. This should be minimal in most cases, dependant on whether the system/municipality opts to pay for testing and certification fees or requires their operator to pick up this expense themselves. It is also possible that some systems may need to increase the allotted salary for their system operators. This expense could be passed on the customers with a slight increase in rates.

New regulations will necessitate increased data management capabilities and tracking of the new and existing certified operators. It is anticipated that equipment additions and upgrades (computers, software, etc.) to accomplish this will cost approximately \$8,750 per year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State or local governmental units which own, manage, and/or operate a community waste/wastewater system may determine a need to increase their revenue collections (i.e., increase water bills) to cover any increased costs of complying with the operator certification rule. If such increases do occur, it should be in only a very small number of instances since most systems have certified operators already employed and will encounter no new expense.

Adoption of the proposed water treatment certification rule would add approximately 1,000 water systems serving under 500 population to the existing inventory already tracked by the agency. Of these systems, we anticipate an increase of about 250 tests given and about the same number of certificates applied for each year. At the current rate of \$5 per exam and an average of \$30 per applicant for issuance of certificates, the self-generated revenues for the program should see an increase of approximately \$8,750 per year beginning in FY 02-03.

Also to be considered, with the adoption of the new rule, approximately \$2,176,460 in federal funds would be released to the state as part of the Drinking Water Revolving Loan Fund (DWRLF) FY 2001 grant. A similar amount would be forthcoming in the following fiscal year. This is as a result of a USEPA requirement to hold back 20 percent of the state's unawarded FY 2001 funds (\$10,882,300) and FY 2002 funds (amount not yet determined). If the state's Operator Certification Program is not approved by September 20, 2002, these funds will be permanently lost to the state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A small number of consumers may have a minimal increase in their service rates as a result of charges being passed on to them by their providers.

Most directly affected by this new rule will be operators of very small systems which were previously exempt from certification. As an operator certified by the state of Louisiana, these people will possess a professional license which could open employment opportunities both within the state as well as within other states which have a reciprocal agreement with Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact is expected on competition and employment.

Madeline McAndrew
Assistant Secretary
0105#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Adult Denture Program
Reimbursement Fee 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 coverage under the Medicaid Program for dentures and denture related services rendered to recipients age 21 years and older. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau determined it was necessary to increase the reimbursement fees for certain designated procedure codes. In addition, the bureau established requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid Program (*Louisiana Register*, Volume 27, Number 1). The bureau requires Adult Denture Program providers to 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 requirement is applicable 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. The bureau now proposes to adopt a rule to continue the provisions contained in the January 21, 2001 emergency rule.

NOTICE OF INTENT

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

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

The text of this proposed rule can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

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 Tuesday, June 26, 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: **Adult Denture Program C Reimbursement Fee 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 \$207,968 for SFY 2000-01, \$486,827 for SFY 2001-02, and \$501,432 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 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 \$496,446 for SFY 2000-01, \$1,155,640 for SFY 2001-02, and \$1,190,309 for SFY 2002-03.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Implementation of this proposed rule will increase Medicaid payments to providers of adult denture services by approximately \$704,294 for SFY 2000-01, \$1,642,467 for SFY 2001-02, and \$1,691,741 for SFY 2002-03.
Recipients will benefit by having unique identification information processed into all new removable dental prosthetics reimbursed under the Medicaid program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Ben A. Bearden
Director
0105#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

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 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 a rule to establish the provisions governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24, Number 3). This March 20, 1998 rule was subsequently amended to include the definition of a teaching hospital as required by Act 19 of the 1998 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 rule was later amended to revise the qualifying criteria for small rural hospitals as required by Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

The bureau provides coverage and reimbursement for rural health clinic services under the Medicaid Program. In addition, the bureau issues disproportionate share payments to qualifying rural hospitals for uncompensated costs. Currently, the uncompensated costs of rendering health care services in a provider based rural health clinic are not considered in the calculation of the hospital's uncompensated costs. The bureau adopted an emergency rule to include the uncompensated costs of a provider based rural health clinic in the calculation of the rural hospital's uncompensated costs (*Louisiana Register*, Volume 27, Number 4). This rule was adopted to enhance access to primary healthcare services. The bureau now proposes to adopt a rule to continue the provisions contained in the April 10, 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, and 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 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 Health Care Financing Administration.

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 Tuesday, June 26, 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: Disproportionate Share Hospital Payment Methodologies C Provider Based Rural Health Clinics

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs to the state as a result of this proposed rule. It is anticipated that certified match will be obtained through intergovernmental transfer from public rural hospitals. The certified match will be approximately \$492,474 for SFY 2000-01, \$2,291,236 for SFY 2001-02, and \$2,359,972 for SFY 2002-03. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 2000-2001 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 \$1,175,686 for SFY 2000-01, \$5,438,978 for SFY 2001-02, and \$5,602,148 for SFY 2002-03.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase disproportionate share payments to the eight rural hospitals that

own twelve rural health clinics by approximately \$1,668,000 for SFY 2000-01, \$7,730,214 for SFY 2001-02, and \$7,962,120 for SFY 2002-03. It is possible that this program could expand if additional rural hospitals choose to open new rural health clinics.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0105#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Early Periodic Screening Diagnosis and Treatment (EPSDT) Dental Program C Reimbursement Fee 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 Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the 7 percent reduction to the reimbursement rates for EPSDT dental services was restored and the reimbursement fees for certain designated procedure codes were increased (*Louisiana Register*, Volume 26, Number 7). The bureau subsequently determined that it was necessary to make additional increases to the fees for certain designated procedure codes in order to be in compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature. In addition, the bureau established requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid Program (*Louisiana Register*, Volume 27, Number 1). The bureau requires EPSDT dental providers to 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 requirement is applicable 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. The bureau now proposes to adopt a rule to continue the provisions contained in the January 21, 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, and autonomy as described in R.S. 49:972.

The text of this proposed rule can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

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 Tuesday, June 26, 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: Early Periodic Screening Diagnosis and
Treatment (EPSDT)C Dental ProgramC Reimbursement
Fee 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 \$19,663 for SFY 2000-01, \$45,854 for SFY 2001-02, and \$47,230 for SFY 2002-03. It is anticipated that \$160 (\$80 SGF and \$80 FED) will be expended in SFY 2000-2001 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 \$46,834 for SFY 2000-01, \$108,849 for SFY 2001-02, and \$112,114 for SFY 2002-03.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will increase Medicaid payments to providers of EPSDT dental services by approximately \$66,337 for SFY 2000-01, \$154,703 for SFY 2001-02, and \$159,344 for SFY 2002-03.

Recipients will benefit by having unique identification information processed into all new removable dental prosthetics reimbursed under the Medicaid program.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition and employment.

Ben A. Bearden
Director
0105#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of the Secretary**

Drug-Free Workplace and Testing (LAC 40:XXI.101-117)

In accordance with the provisions for rule adoption under R.S. 49:950 et seq., the Administrative Procedure Act, and by virtue of the statutory authority vested by R.S. 36:304(3), notice is hereby given that the Office of the Secretary proposes to adopt the following rule.

The proposed adoption of such rule shall serve to fulfill the commitment of Executive Order MJF 98-38 for a drug-free workplace for the public employees of Louisiana and to therewith develop and implement drug testing programs pursuant to R.S. 49:1001, et seq.

**Title 40
LABOR**

**Part XXI. Drug-Free Workplace and Drug Testing
Chapter 1. General Provisions**

§101. Declaration of Policy

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

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

C. The Department of Labor fully supports these efforts and is committed to maintaining a drug-free workplace, and a workforce free of substance abuse.

D. Employees are prohibited from reporting for work or performing work for the department with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on any official state business, on duty or on call for duty.

E. To assure maintenance of a drug-free workforce, the Department of Labor shall implement a program of drug testing, in accordance with Executive Order Number MJF 98-38; R.S. 49:1001, et seq.; and all other applicable federal and state laws, as set form below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

§103. Applicability

A. This policy shall serve as notice and shall apply to all employees and appointees of this department as well as potential employees and potential appointees. All persons having an employment relationship, whether classified, unclassified, student employees, student interns, full-time, part-time or temporary, and/or restricted job appointments, are subject to this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

§105. Responsibility

A. All employees are responsible for reporting for duty in the physical and emotional condition that maximizes his/her ability to perform assigned tasks in a competent and safe manner. All employees are responsible for promptly and cooperatively submitting to drug testing when required to do so.

B. The human resources director, after approval by the appointing authority, is responsible for administering the drug testing program; determining when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing service provider and from the medical review officer; and, collecting all appropriate documents necessary for the department's defense in the event of legal challenge. This will be done in consultation with the applicable appointing authority.

C. All supervisory personnel are responsible for assuring that each employee under their supervision receives a copy of this policy, signs a receipt form, and understands or is given the opportunity to understand and have questions answered about its content.

D. The Secretary of Labor is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

§107. Definitions

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

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

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

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

Reasonable Suspicion Cbelief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive or Security-Sensitive Position Ca position determined by appointing authorities to contain duties of such nature that the compelling state interest to keep the workplace and employee drug-free outweighs the employee's privacy interests. Such positions within the department will be determined with consideration of statutory law, jurisprudence, the practices of this agency and examples provided by the executive order and the Division of Administration. Some examples in the Department of Labor are:

1. positions with duties that are required or authorized to perform safety inspections of a structure;
2. positions with duties that are required or may be authorized to carry a firearm;
3. positions with duties that are required or are authorized to exercise any responsibility over power plant equipment;
4. positions with duties that require on the job instructing or on the job supervising of any person to operate or maintain heavy equipment or machinery;
5. positions with duties that require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

§109. Conditions Requiring Drug Tests

A. The Department of Labor shall require drug testing under the following conditions.

1. Reasonable Suspicion. Any employee shall be required to submit to drug test if there is reasonable suspicion (as defined in this policy) that the employee is using drugs. The decision to test will be by an appointing authority based upon reliable, objective and articulable facts

derived from direct observation of the employee's appearance, behavior, speech, body odor or physical manifestations. The observation must be made by supervisory personnel (two, if possible) who shall record, in writing, the observations leading to the recommendation for testing.

2. Post-Accident/Incident

a. Each employee directly involved in an on duty accident shall be required to submit to drug testing if the accident:

i. involves circumstances leading to a reasonable suspicion that the accident may have involved the employee's drug use and the employee's action or inaction may have been a causative fact;

ii. results in a fatality; or

iii. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

b. Only an appointing authority shall require an employee to submit to post-accident/incident testing. This decision may be based upon the recommendation of supervisory personnel at the thoroughly reviewed the circumstances of the accident/incident. (There may also be some consultation with the department's safety officer). The supervisor will fully document the facts upon which the recommendation for testing is made as soon as it is feasible to do so.

3. Return to Duty/Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the department following an incident involving substance abuse shall be required to submit to random drug testing.

4. Pre-Employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the human resource director following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

5. Promotion/Position Changes/etc. to Safety Sensitive and Security Sensitive Positions. Employees are required to undergo drug testing prior to being promoted, reassigned, temporarily detailed, or demoted, to a safety or security sensitive position. An offer of any of these actions will be withdrawn if a positive drug test is reported, and employees are further subject to disciplinary action.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

§111. Procedure

A. Drug testing pursuant to this policy shall be conducted for the presence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines in accordance with the provisions of R.S. 49:1001, et seq. The Department of Labor reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.

B. The human resource director shall be involved in any determination that one of the above-named conditions requiring drug testing exists. Upon such determination, the human resource director shall notify the supervisor of the employee to be tested, who shall immediately notify the employer where and when to report for the testing.

C. A provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws shall perform testing services. At a minimum, the testing service shall assure the following.

1. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimens and the privacy of the donors. The human resource director and appointing authority shall review and concur in advance with any decision by collection site person to obtain a specimen under direct observation. A same gender collection site person shall conduct observation.

2. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

3. A Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratory shall perform testing.

4. The laboratory shall use a cut-off of 50 ng./ml. for a positive finding in testing for cannabinoids (marijuana metabolites).

5. All positives reported by the laboratory must be confirmed by gas chromatography/mass spectrometry.

6. The laboratory shall report all positive results of drug testing to a qualified medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

§113. Confidentiality

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

§115. Employee Assistance Program (EAP)

A. Early recognition and treatment of drug abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance from the department's Employee Assistance Program in the Office of Equal Opportunity and Compliance. Any such involvement will be held in strict confidence, but employees should know that supervisors, cost center managers, and/or appointing authorities will be kept abreast of the employee's treatment and leave needs.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

§117. Violation of Policy

A. Violation of this policy, including refusal to submit to drug testing, will result in adverse actions, including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public. Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided pre-deprivation notice and an opportunity to respond prior to any recommended disciplinary action.

B. Illustrative examples of violations of such drug-testing policy which shall cause recommendation for disciplinary action include but are not limited to:

1. refusal to submit to a drug test;
2. failure to cooperate in any way which prevents the timely completion of a drug test;
3. submission of an adulterated or substitute sample for drug testing;
4. buying, selling, dispensing, distributing, possessing, using, any illegal or unauthorized substance;
5. operating any vehicle while on duty under the influence of drugs;
6. positive drug test results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304.A(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 27:

All interested persons are invited to submit data, views, comments, or arguments, in writing, on the proposed rule to Joanna B. Wilson, General Counsel, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, LA 70804-9094, or by FAX (225) 342-7596 no later than 5 p.m. Wednesday, June 20, 2001.

Family Impact Statement

1. Effect on the Stability of the Family. These rules should have no effect on the stability of the family. These rules regulate drug testing of department employees in the workplace.

2. Effect of the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules do not address education or parental supervision.

3. Effect on the Functioning of the Family. These rules should not impact the functioning of the family. The drug testing program does not impose any cost on the family.

4. Effect on Family Earnings and Family Budget. These rules should have no effect on the behavior and personal responsibility of children as the rules apply only to department employees.

5. Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. These rules do not make any requirements on the family. These rules only apply to department employees.

Dawn Watson
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Drug-Free Workplace and Testing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In order to conduct drug testing for all new hires and to implement random employee testing, including any promotions to safety-sensitive positions and any suspicious accidents which may occur within the fiscal year of 2001-2002, the estimated statewide costs are \$9,024 at \$23.50 per test for all agency offices under the state contract with Section Drug Screening Company, as follows:

Projected new hire of 264 (based upon the average of the first quarter, 2001: \$6,204.

Projected random employee testing of 120, including safety-sensitive promotions (based upon 10 employees per month: \$2,820.

Total estimated implementation costs: \$9024.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There shall be no effect on revenue collections of state or local governmental units as the result of implementation of a rule for a drug-free workplace and drug testing.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The implementation of a drug testing policy shall not cause agency employees to incur any costs, other than be subject to disciplinary action for positive test results.

There shall neither be any economic benefits gained by agency employees under such policy, other than the degree of chance of hire or promotion in comparison to other competing individuals who test positive to drug testing.

No other known persons or nongovernmental groups are anticipated to economically gain from the implementations of such drug testing policy, other than the general public of the state of Louisiana shall be better assured of the safety and productivity of state government.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the aforementioned degree of chance of hire or promotion shall be significant.

Dawn R. Watson
Deputy Secretary
0105#089

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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, hereby gives notice of its intent to amend 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:

Comments should be forwarded to Charlene Mora, Chairman, State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808. Written comments will be accepted through the close of business on June 9, 2001.

A copy of the rule may be obtained from the LA State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, Louisiana 70808, telephone number (225) 763-3556.

Charlene Mora
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Application

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation cost for this rule change. This rule deletes a requirement that application forms for out of state licenses include a signed consent for service of process.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no significant costs or economic benefits to any persons or groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Celia R. Cangelosi
Attorney
0105#020

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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 gives notice that rulemaking procedures have been initiated to amend 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:

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:

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 15, 2001, at 4:30 p.m.

to Wayne R. Rogillio, Executive Secretary, Louisiana State Board of Private Security Examiners, P.O. Box 86510, Baton Rouge, LA 70879-6510.

Wayne R. Rogillio
Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Firearm Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Neither costs nor savings to state or local governmental units are involved in these rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is anticipated from these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs or economic benefits to directly affected persons or governmental groups are expected from these rule changes. Only those persons in the private security industry would be directly affected by the amendment of the board's existing rules and regulations, and no additional costs, workload adjustments or paperwork will be incurred.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated from these rule changes.

Wayne R. Rogillio
Executive Secretary
0105#055

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Operating Standards
(LAC 42:VII.2953, 3304, 3305; IX.2922,
3304, 3305, and XIII.2953, 3304, 3305)

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt amendments to LAC 42:VII.2953, 3305, IX.2922, 2923, 3305 and XIII.2953, 3305 and to add LAC 42:VII.2954, 3304, IX.3304 and XIII.2954, 3304 and to repeal LAC IX.2924 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

**Part VII. Pari-Mutuel Live Racing Facility
Slot Machine Gaming**

Chapter 29. Operating Standards

§2953. Promotions

A. All promotional programs, including contests and tournaments, conducted by or on behalf of a licensee shall comply with the Act and these regulations as well as all

federal and state laws and regulations and municipal ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The licensee and its general manager conducting the promotional program is responsible for ensuring that all promotional programs of the licensee are in compliance with Subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons on the licensee's property or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the licensee. Licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the licensee, and may not be considered a payout for purposes of calculating net gaming proceeds.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;
2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino;
3. no payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the licensee to respond and correct deficiencies or violations appropriate under the circumstances, the division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

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 26:768 (April 2000), amended LR 27:

§2954. Tournaments

A. All gaming tournaments conducted by or on behalf of the licensee are subject to prior written approval by the division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid

to play a game previously approved by the division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of gaming tournament shall be made in writing and received by the division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the entry fees before calculating net gaming proceeds. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating net gaming proceeds. No other deductions shall be made for purposes of calculating net gaming proceeds. The licensee shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating net gaming proceeds.

5. All entry fees and cash prizes shall be reported on the daily tax remittance summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily tax remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with the division's rules concerning record retention in Chapter 27.

B. The division may waive the requirements of this rule upon a showing of good cause.

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:

Chapter 33. Surveillance

§3304. Surveillance Personnel Employment Provisions

A. Surveillance department employees shall be independent of all other departments. Employees of the licensee assigned to monitoring duties in the surveillance room are prohibited from being concurrently employed in any other capacity by that licensee or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the surveillance room from working in the same capacity at another licensee.

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:

§3305. Surveillance and Division Room Requirements

A. - B. ...

C. Employees of the licensee assigned to monitoring duties in the surveillance room shall have no other gaming related duties for the licensee.

D. - F. ...

G The division room shall be furnished with all necessary furniture and fixtures as specified by the division and shall be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205.

H. Except in the event of circumstances beyond the reasonable control of the licensee or unless authorized by the division, the surveillance room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

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 26:771 (April 2000), amended LR 27:

Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards

§2922. Promotions

A. All promotional programs, including contests and tournaments, conducted by or on behalf of the Casino Operator or the Casino Manager shall comply with the Act and these Regulations as well as all federal and state laws and regulations and municipal ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The Casino Operator or the Casino Manager conducting the promotional program is responsible for ensuring that all promotional programs of the Casino Operator and Casino Manager are in compliance with subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons in the official gaming establishment or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the Casino Operator or Casino Manager. If the Casino Operator or the Casino Manager intends to offer coupons, scrip, and cash equivalents as part of a promotion it shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the Division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the Casino Operator or the Casino Manager, and may not be considered a payout for purposes of calculating Gross Gaming Revenue.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;

2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the Casino;

3. no payment or purchase of anything of value, including chips or tokens from the Casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the Casino Operator or Casino Manager to respond and correct deficiencies or violations appropriate under the circumstances, the Division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), amended LR 27:

§2923. Tournaments

A. All gaming tournaments conducted by or on behalf of the Casino Operator or the Casino Manager are subject to prior written approval by the Division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the Division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid to play a game previously authorized by the Division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of a gaming tournament shall be made in writing and received by the Division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The Division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included for purposes of determining Gross Gaming Revenue. No cost incurred by the Casino Operator or Casino Manager associated with holding the tournament shall be deducted from the entry fees before calculating Gross Gaming Revenue. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating Gross Gaming Revenue. No other deductions shall be made for purposes of calculating Gross Gaming Revenue. The Casino Operator or Casino Manager shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating Gross Gaming Revenue.

5. All entry fees and cash prizes shall be reported on the daily fee remittance summaries in a manner Approved by the Division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily fee remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with the Division's rules concerning record retention in Chapter 27.

B. The Division may waive the requirements of this rule upon a showing of good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:336 (February 2000), amended LR 27:

§2924. Giveaways and Drawings

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 26:336 (February 2000), LR 27:

Chapter 33. Surveillance

§3304. Surveillance Personnel Employment Provisions

A. Surveillance department employees shall be independent of all other departments. Employees of the Casino Operator or Casino Manager assigned to monitoring duties in the Surveillance Room are prohibited from being concurrently employed in any other capacity by that Casino Operator or Casino Manager or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the Surveillance Room from working in the same capacity at another.

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:

§3305. Surveillance Room and Gaming Board's Controlled Space Requirements

A. - B. ...

C. Employees of the Casino Operator or Casino Manager assigned to monitoring duties in the Surveillance Room shall have no other gaming related duties for the Casino Operator or Casino Manager.

D. - F. ...

G. Consistent with Sections 7.2 and 9.26 of the Casino Operating Contract, the Gaming Board's Controlled Space shall be furnished with all necessary furniture and fixtures as specified by the division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality

and specifications as provided in §4205 of these Regulations.

H. Except in the event of circumstances beyond the reasonable control of the Casino Operator or Casino Manager or unless authorized by the division, the Surveillance Room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

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 25:1969 (October 1999), amended LR 27:

Part XIII. Riverboat Gaming

Chapter 29. Operating Standards

§2953. Promotions

A. All promotional programs, including contests and tournaments, conducted by or on behalf of a licensee shall comply with the Act and these regulations as well as all federal and state laws and regulations and municipal ordinances including R.S. 4:701 et seq., the Louisiana Charitable Raffles, Bingo and Keno Licensing Law.

B. The licensee and its general manager conducting the promotional program is responsible for ensuring that all promotional programs of the licensee are in compliance with subsection A of this regulation.

C. No promotional programs, including contests or tournaments may be conducted which impair the integrity of the games, the security, surveillance and well-being of persons on the licensee's property or the calculation of gaming revenue. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that do not impact the calculation of gaming revenues, shall be considered a promotional expense of the licensee. Licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls prior to the implementation of any such programs governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. A slot jackpot may be increased as part of a promotional program. The increased portion of the jackpot which results from the promotion shall not be paid out by the machine itself. The increased portion of the jackpot shall be paid manually and shall be considered a promotional expense of the licensee and may not be considered a payout for purposes of calculating net gaming proceeds.

E. Any promotional program involving a giveaway of prizes or drawing for cash or prizes shall incorporate the following elements:

1. only persons 21 years of age and older shall be eligible to participate;

2. entry forms required in drawings open to the general public shall be displayed in a prominent manner inside the casino;

3. no payment or purchase of anything of value, including chips or tokens from the casino or any other business, shall be required for participation in any giveaway or drawing, nor shall there be a requirement to participate in any gaming activity or to pay an entry fee.

F. After notice and reasonable opportunity for the licensee to respond and correct deficiencies or violations appropriate under the circumstances, the division may terminate a promotional program at anytime by issuance of an order. This order need not be in writing to be effective but shall be followed by written notice of the action within three business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board LR 27:

§2954. Tournaments

A. All gaming tournaments conducted by or on behalf of the licensee are subject to prior written approval by the division.

1. A gaming tournament is a contest or event wherein persons play a game or games previously authorized by the division in competition with each other to determine the winner of a prize or prizes.

2. A gaming tournament shall include, but is not limited to any contest or event wherein an entry fee is paid to play a game previously approved by the division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. A request for approval of gaming tournament shall be made in writing and received by the division at least 30 days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament, the manner of entry, a description of those persons eligible to enter the tournament, the entry fee assessed if any, the prizes to be awarded, the manner in which the prizes are to be awarded and the dates of the tournament. The division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the entry fees before calculating net gaming proceeds. All cash prizes awarded in the tournament may be deducted as payouts for purposes of calculating net gaming proceeds. No other deductions shall be made for purposes of calculating net gaming proceeds. The licensee shall not deduct the cost of any noncash prizes awarded as a result of the tournament for purposes of calculating net gaming proceeds.

5. All entry fees and cash prizes shall be reported on the daily tax remittance summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the daily tax remittance summary on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and such recordation retained in accordance with

the division's rules concerning record retention in Chapter 27.

B. The division may waive the requirements of this rule upon a showing of good cause.

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:

Chapter 33. Surveillance

§3304. Surveillance Personnel Employment Provisions

A. Surveillance department employees shall be independent of all other departments. Employees of the licensee assigned to monitoring duties in the surveillance room are prohibited from being concurrently employed in any other capacity by that licensee or any other licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate. This does not prohibit an employee with monitoring duties in the surveillance room from working in the same capacity at another licensee or casino owned in whole or in part by the same holding, intermediary or parent company or affiliate.

B. A surveillance department employee involved in monitoring gaming operations shall not be reemployed by the licensee in any other permitted capacity after the employee resigns from or is terminated by the licensee.

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:

§3305. Surveillance Room and Division Room Requirements

A. - B. ...

C. Employees of the licensee assigned to monitoring duties in the surveillance room shall have no other gaming related duties for the licensee.

D. - F. ...

G. The division room shall be furnished with all necessary furniture and fixtures as specified by the division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205.

H. Except in the event of circumstances beyond the reasonable control of the licensee or unless authorized by the division, the surveillance room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board LR 27:

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 June 9, 2001, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Family Impact Statement

Pursuant to the provisions of R.S. 49:953.A, the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of the amendments to LAC 42:VII.2953, 3305, IX.2922, 2923 and XIII.2953m 3305 and to add LAC 42:VII.2954, 3304, IX.3304 and XIII.2954, 3304 and to repeal LAC IX.2924.

It is accordingly concluded that the amendments to LAC 42:VII.2953, 3305, IX.2922, 2923 and XIII.2953, 3305 and to add LAC 42:VII.2954, 3304, IX.3304 and XIII.2954, 3304 and to repeal LAC IX.2924 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.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Operating Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no implementation costs to state or local government units estimated. It is anticipated that amendments to rules regarding promotions will result in additional State Police manpower being made available to perform more important regulatory functions.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no determinable effect on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefit to directly affected persons or non-governmental groups is estimated. Under the proposed rules, certain licensees with common ownership will be allowed to share surveillance personnel and thereby potentially avoid shift shortages by having more employees available to utilize.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0104#054

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**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 proposes to adopt 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:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Senior Policy Consultant, Miscellaneous Taxes & Regulatory Services, Policy Services Division, 330 North Ardenwood Drive, Baton Rouge, LA 70806 or by fax to (225) 925-3855. All comments must be submitted by 4:30, June 27, 2001. A public hearing will be held on June 28, 2001, at 1:30 p.m. in the Secretary's Conference Room on the second floor of 330 North Ardenwood Drive, Baton Rouge, LA 70806.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: File Date of Returns and Other
Documents; Payment Dates**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of this proposed regulation, which establishes the 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, will have no impact on the agency's costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There should be no estimated costs and/or economic benefits
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0105#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Disability (LAC 58:I.2501 - 2523)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend and reenact LAC 58:I.2503, 2505, 2507, 2509, 2511, 2513, 2525, 2527, and 2529, and to repeal LAC 58.I.2501, 2521 and 2523, and renumber accordingly. The proposed amendments

and enactment to the rules changes the procedures utilized for the Disability program of LASERS.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule section of this register.

The proposed amendments and enactments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, Louisiana 70809 by 4:30 p.m. on August 10, 2001.

Glenda Chambers
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Disability

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation cost to the state or local governmental units are anticipated because of the proposed rules. An annual anticipated savings to the System in the amount of \$287,282 is expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These regulations will have no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated cost and/or economic benefits that should affect any persons or nongovernmental group as a result of these rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated impact and employment as a result of these rules.

Glenda Chambers
Executive Director
0105#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given July 23-27, 2001, 9:30 a.m. at Lomax Hall, Louisiana Tech University, Ruston, LA. The deadline for sending in application and fee is June 8, 2001. No applications will be accepted after June 8, 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) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to June 8, 2001. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

0105#042

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Advanced Notice of Rulemaking for Control of Nitrogen Oxides for Attainment of Ozone Standard (AQ215)

The Louisiana Department of Environmental Quality is requesting comments on the May 20, 2001, draft proposed addition of Chapter 22, Control of Emissions of Nitrogen Oxides (NO_x), to LAC 33:III. The draft proposed rule would establish requirements for reducing emissions of 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. In addition to the technical content of the document, the LDEQ is requesting comments on the estimated cost to implement this regulation as written.

All interested persons are invited to submit written comments on the draft proposal. Persons commenting should reference the draft proposal as Log #AQ215. Comments are due by June 20, 2001, at 4:30 p.m. and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178; hand delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; or faxed to (225) 765-0389. If you have any questions regarding the content of this draft proposal, please contact Maurice Oubre at (225) 765-0248. Copies of the proposed draft rule are available for purchase by contacting the Regulation Development Section at the above address or at (225) 765-0399.

This draft proposed rule 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

0105#094

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Restoration Planning CT/V Westchester Oil Spill

Purpose

The Louisiana Oil Spill Coordinator's Office (LOSCO), Louisiana Department of Environmental Quality (LDEQ), Louisiana Department of Natural Resources (LDNR), Louisiana Department of Wildlife and Fisheries (LDWF), the U.S. National Oceanic and Atmospheric Administration (NOAA), and the U.S. Department of the Interior (DOI) represented by the U.S. Fish and Wildlife Service (USFWS), have determined that the impacts of the November 28, 2000, discharge of crude oil spilled by the T/V Westchester, warrant conducting a natural resource damage assessment which will include restoration planning.

Site and Release Information

On November 28, 2000, the T/V Westchester grounded in the Mississippi River at River Mile 38, discharging approximately 500,000 gallons or more of crude oil into the Mississippi River in Plaquemine Parish, Louisiana. Several thousand acres including Mississippi River surface waters and shoreline habitats, Gulf of Mexico surface waters, adjacent marsh and other habitats, and the fauna inhabiting these areas were exposed to crude oil as a result of this discharge by Marine Oil Trader 3, Ltd., and ERMIS Maritime Corp., the responsible parties in this incident.

The affected portion of the Mississippi River and delta area supports a wide variety of wildlife and many different habitats. The habitats range from unvegetated mud and sandflats, batture areas, and vegetated areas ranging from freshwater to saltwater systems. Numerous species of fish are present throughout the area. In the river, there are predominately freshwater species such as catfish, bass, crappie, and sunfish. In the marshes, there are more estuarine and marine species such as anchovy, mullet, menhaden, and drum. Shellfish such as oysters, shrimp, and crabs are found in the brackish and salt marshes.

Seabird and wading bird nesting colonies are located throughout the area, and it is a major wintering ground for wintering waterfowl. Birds observed in the area during the incident included, but were not limited to, brown and white

pelicans, double-crested cormorants, great and snowy egrets, great and little blue herons, royal and Forrester's terns, laughing and herring gulls. Mink, river otter, nutria, muskrat, and raccoons are present in marsh areas.

Hunting and fishing occur throughout the area. There are two wildlife refuges and management areas in the vicinity. They are the Pass-a-Loutre State Wildlife Management Area and the Delta National Wildlife Refuge.

Authorities

The natural resource trustees for this incident are DOI, NOAA, LOSCO, LDEQ, LDNR, and LDWF. These trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. §§300.600 and 300.605. Pursuant to L.R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan (September 1995) describes the state trust resources which include the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. DOI has been designated as trustee for the natural resources that it manages or controls. Examples of those resources as described within the National Contingency Plan, 40 C.F.R. §300.600(b)(2) and (3), include the following and their supporting ecosystems: migratory birds, anadromous fish, endangered species and marine mammals, federally owned minerals, certain federally managed water resources, and natural resources located on, over, or under land administered by the Department. In the case at hand, the trust resources of concern are migratory birds and threatened and endangered species, which are managed by the U.S. Fish and Wildlife Service, which represents DOI in this matter. NOAA's trust resources include, but are not limited to, commercial and recreational fish species, anadromous and catadromous fish species, marshes and other coastal habitats, marine mammals, and endangered and threatened marine species.

Trustees' Determinations

Following the notice of the discharge, the natural resource trustees made the following determinations required by 15 C.F.R. §990.41:

Jurisdiction

The natural resource trustees have jurisdiction to pursue restoration pursuant to Oil Pollution Act (OPA), 33 U.S.C. § 2702 and 2706(c). The trustees have determined that the release of approximately 500,000 gallons or more of crude oil into the waters of the Mississippi River on November 28, 2000, was an incident, as defined in 15 C.F.R. §990.30.

This unauthorized discharge was not permitted under state, federal or local law.

Using information gathered since the beginning of the incident during the response and natural resource damage assessment initiation phases, the trustees have determined that natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The oil discharged contains components that are known to be toxic to aquatic organisms, birds, wildlife, and vegetation. Vegetation, birds, wildlife, and aquatic organisms were exposed to the oil from this discharge, and mortality to some flora and fauna resulted from this exposure.

Proceed with Preassessment

Because the conditions of 15 C.F.R. §990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 C.F.R. §990.41(b) to proceed with preassessment.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by 15 C.F.R. §990.42(a) and are providing notice pursuant to 15 C.F.R. §990.44 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident

The trustees base this determination upon data which were collected and analyzed pursuant to 15 C.F.R. §990.43 and which demonstrate that resources and services have been injured from this incident. Natural resources injured as a result of the spill and spill response may include, but are not limited to: water quality, river/delta vegetation habitats, sand and mudflat habitats, rip-rap as habitat, aquatic fauna, birds, small mammals, and recreational use opportunity. Many live oiled birds were observed, and at least 12 oiled birds were found dead. Concentrations of polycyclic aromatic hydrocarbons were detected in water samples at levels known to be toxic to aquatic organisms in laboratory studies. Portions of plants were coated with a banding of oil, some plants appeared to be stressed due to oiling, and other plants were cut down or dug out as part of the response actions. An area of the Mississippi River and delta was effectively closed to recreational use during the early response phase of the incident.

Response actions have not adequately addressed the injuries resulting from the incident

Although response actions were initiated promptly and pursued with appropriate effort, the nature of the discharge and the sensitivity of the environment precluded prevention of injuries to natural resources. It is anticipated that injured natural resources will return to baseline levels; but significant interim losses have, and will continue to occur, until return to baseline is achieved.

Assessment procedures are available to be used to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services

Among the available procedures are habitat injury assessment studies to be used in conjunction with Habitat Equivalency Analysis to determine compensation for injuries to these habitats. Models, comparisons to observations of injury resulting from similar releases, and other methodologies are available for evaluating injuries to fauna.

Feasible primary and compensatory restoration actions exist to address injuries from this incident

Potential restoration actions include, but are not limited to: planting native wetland vegetation in appropriate areas; creation, enhancement, or protection of wetlands; and construction of new, or improvement of existing, recreational facilities.

Public Involvement

Pursuant to 15 C.F.R. §990.44(c), the trustees seek public involvement in restoration planning for this oil discharge, through public review of and comment on the documents contained in the administrative record. The administrative record for this incident is maintained at the Louisiana Oil Spill Coordinator's Office. The public will also have the opportunity to review and comment on the Draft and Final Restoration Plans when they have been prepared.

Comments should be sent to Warren Lorentz, Louisiana Oil Spill Coordinator's Office/Office of the Governor, 625 N. 4th Street, Suite 800, Baton Rouge, LA 70802; telephone (225) 219-5800, facsimile (225) 219-5802.

The Louisiana Oil Spill Coordinator's Office, as the Lead Administrative Trustee in this incident, and on behalf of the natural resource trustees of the state of Louisiana, DOI, and NOAA, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d), hereby provides Marine Oil Trader 3, Ltd., and ERMIS Maritime Corp. this notice of intent to pursue restoration planning and invites their participation with the natural resource trustees in conducting restoration planning.

Warren Lorentz
Natural Resource Specialist-NRDA

0105#046

POTPOURRI

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, June 9, 2001 at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

0105#044

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Maternal and Child Health Section**

Maternal and Child (MCH) Block Grant Federal Funding

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant Federal Funding for FY 2001-2002 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment, conducted in 2000.

Interested persons may request copies of the application from:

State of Louisiana
DHC Office of Public Health
Maternal and Child Health Section, Room 612
P.O. Box 60630
New Orleans, LA 70160

Additional information may be gathered by contacting Danielle A.L. Foltz at (504) 568-5073.

David W. Hood
Secretary

0105#049

POTPOURRI

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

**Private Nursing Facilities
Revised Reimbursement Rates**

Effective for dates of service July 1, 2000 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has established the following reimbursement rates for private nursing facility services:

Level Of Care	Per Diem Rate	Monthly Rate
Skilled Nursing	\$ 80.24	\$2,440.63
Intermediate Care I	\$ 76.94	\$2,340.26
Intermediate Care II	\$ 76.94	\$2,340.26
Skilled Nursing/Infectious Disease	\$248.01	\$7,543.64
Skilled Nursing/Technology Dependent Care	\$236.33	\$7,188.37

It should be noted that the above rates include a provider fee of \$5.56. Inquiries regarding these rates may be directed to the Director of Institutional Reimbursement, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood
Secretary

0105#070

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
Arlen Corporation	Greenwood-Waskom	S	Grey Hickey SWD	001	060076
Cardinal Petroleum Corp. of LA	Tullos Urania	M	Urania	009	87405
Cardinal Petroleum Corp. of LA	Tullos Urania	M	Urania	011	138338 (30)
Herman Fields	Caddo Pine Island	S	Land D	001	036675
Herman Fields	Caddo Pine Island	S	Land D	003	036809
Herman Fields	Caddo Pine Island	S	Land D	004	036810
D. L. Gish Oil Partnership	Sarepta	S	Campbell	004	186245
H. L. Hawkins and F. S. Kelly, Jr.	Bellevue	S	Lodwick Lumber Co	001	052547
Jadath	Tullos Urania	M	D C Shaw	001	88607
Jadath	Tullos Urania	M	Lester Gaharan	001	106489
Jadath	Tullos Urania	M	P S Gaharan	001	126039
Jadath	Tullos Urania	M	Murphrey	002	170803
Jadath	Tullos Urania	M	Murphrey SWD	003	170892
Jadath	Tullos Urania	M	VUA; Murphrey	001	163590
Jadath	Colgrade	S	J R Maloy	001	082591
Jadath	Colgrade	S	J R Maloy	002	082776
Jadath	Colgrade	S	J R Maloy	003	082777
Jadath	Colgrade	S	J R Maloy	004	082882
Jadath	Colgrade	S	J R Maloy	005	082883
Jadath	Colgrade	S	J R Maloy	007	083228
Jadath	Colgrade	S	J R Maloy	010	084372
Jadath	Colgrade	S	J R Maloy	009	084373
Jadath	Colgrade	S	J R Maloy	008	084374
Jadath	Colgrade	S	J R Maloy	012	084375
Jadath	Colgrade	S	J R Maloy	011	084376
Jadath	Colgrade	S	J R Maloy	014	105942
Jadath	Colgrade	S	J R Maloy	017	150624
Charles E. Mayfield	Bellevue	S	Knighton	003	109944
Harold McClusky et al	French Fork	M	La Delta	001	146652
Owen Production Co.	Caddo Pine Island	S	G M Smiley A SWD	A-1	052527
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-2	053850
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-3	054200
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-4	054666
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-5	054945
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-6	055059
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-8	106220
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-9	106734
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-10	106735

Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-13	112999
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-14	113000
Owen Production Co.	Caddo Pine Island	S	G M Smiley "A"	A-15	113001
J. T. Parks	Bellevue	S	Lodwick Lumber Co	002	033276
Plymouth Resources Group II Inc.	Kings Ridge	L	Lafourche Parish School Board	001	219523 (28)
Sinclair Oil	Caddo Pine Island	S	Caddo Levee Board	020	990436
Bailey Smith et al	Tullos Urania	M	Renfrew	001	9403
Geo. W. Wetherbee	Wildcat	S	Bliss & Wetherbee	E-4	007141

Facility Name	Location	Parish	Well Name	Well Number	Serial Number
Big Diamond Truck Service, Inc.	LA Hwy 384	Cameron	Odell Vinson SWD	001	970827
Castex Systems, Inc.	US 90 Hwy 90	Acadia	Castex Systems SWD	001	034959
Curtis Simon Pit	Intersection of LA 3093 and 335	Vermilion	N/A	N/A	N/A
Herpin Pit	Hwy LA 3093 Approx. 1/4 mi. N of LA 335 SW of Kaplan	Vermilion	N/A	N/A	N/A
John Nunez Pit	Hwy 335 Approx. 2 mi. S. of Abbeville	Vermilion	N/A	N/A	N/A
Leleux Disposal	LAP -5-9, east of Leleux	Vermilion	N/A	N/A	N/A
Mar Service, Inc.	LA Hwy 93	St. Landry	Tank Farm SWD	002	970819
Midland Site	Midland, LA	Acadia	N/A	N/A	N/A
Oilfield Brine Disposal, Inc.	Abbeville Field	Vermilion	E. LeBlanc	002	970992
Pine Pit	LA 697, 0.5 mi E of LA 343 N of Abbeville	Vermilion	N/A	N/A	N/A
Tower Pit	Parish Road P-9-40 off LA 13 NW of Kaplan	Vermilion	N/A	N/A	N/A
Venvirotek of La., Inc.	US Hwy 90 East	Terrebonne	Venvirotek of Louisiana, Inc. SWD	002	972447

Philip N. Asproditos
Commissioner of Conservation

0105#050

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Docket No. IMD 2001-08
Hearing Date for Statewide Order No. 29-N-1

The Department of Natural Resources, Office of Conservation shall consider the promulgation of an amendment of Statewide Order No. 29-N-1, LAC 43:XVII.Chapter 1. This Notice of Intent corrects the notice published in the *Louisiana Register*, Vol. 29, No. 4, April 20, 2001, page 619.

The full text of this proposed amendment may be viewed in the *Louisiana Register*, Vol. 29, No. 4, April 20, 2001, pages 619-622.

The original notice stated that the public hearing was to be held on Thursday, May 30, 2001. The correct hearing date is Thursday, May 31, 2001, and is to be held in the Conservation Auditorium located on the first floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Philip N. Asproditos
Commissioner of Conservation

0105#045

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Docket No. IMD 2001-03
Hearing Date for Statewide Order 29-B

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 at 10 a.m., Thursday, June 28, 2001, in the Conservation Auditorium located on the First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

At such hearing, the Commissioner of Conservation shall consider the promulgation of an amendment of Statewide Order No. 29-B, LAC 43:XIX, Chapter 3, Section 315, Disposal of Reserve Pit Fluids and other E&P Wastes by Slurry Fracture Injection and Chapter 4, Section 433, Disposal of E&P Wastes by Slurry Fracture Injection. Section 315 will amend existing regulations that allow the onsite disposal of exploration and production wastes into newly drilled wells which are to be plugged and abandoned or into the casing annulus of a well being drilled, a recently completed well, or a well which has been worked over. Section 433 will add new regulations to provide for permitting, drilling, construction, operation and monitoring of onsite or offsite Class II disposal wells for injection of RCRA exempt E&P waste at pressures which exceed the fracture pressure of the injection interval, otherwise known as Slurry Fracture Injection.

A copy of the proposed amendments to Statewide Order No. 29-B may be obtained by writing Carroll Wascom, Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, Louisiana 70804-9275, by accessing Office of Conservation website through the Department of Natural Resources web site at www.dnr.state.la.us by contacting the Injection and Mining Division by phone at (225) 342-5515, or in person at the Injection and Mining Division, Room 253, on the second floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

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 p.m., Thursday, July 12, 2001, at the following address: Office of Conservation, Injection and Mining Division, Box 94275, Baton Rouge, Louisiana, 70804-9275, Re: Docket No. IMD 01-03.

Philip N. Asproditos
Commissioner of Conservation

0105#048

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates and Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 14 claims in the amount of \$52,243.39 were received for payment during the period April 1, 2001 - April 30, 2001. There were 14 claims paid and 0 claims denied.

Loran Coordinates of reported underwater obstructions are:

27750	46916	St Mary
27894	46862	Terrebonne
28118	46898	Terrebonne
28573	46855	Jefferson
28953	46784	Plaquemines

Latitude/Longitude Coordinates of reported underwater obstructions are:

2916.353	8929.915	Plaquemines
2917.254	8942.485	Plaquemines
2922.126	8935.981	Plaquemines
2930.594	9007.754	Jefferson
2943.330	9007.250	Jefferson
2944.365	8928.421	St Bernard
2951.842	9320.783	Cameron
2957.651	8942.539	St Bernard

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0105#051

POTPOURRI

**Department of Public Safety and Corrections
Office of the Fire Marshal**

National Fire Code (LAC 55:V.103)

Notice is hereby given that the State Fire Marshal's Office will accept comments on a proposed rule concerning adoption of the National Fire Code NFPA 101, 2000 Edition. The text of this proposed rule may be viewed on pages 2657-2658 of the November 20, 2000 edition of the *Louisiana Register*. Interested persons may submit written comments on this proposed rule to Tony Walker, Attorney III, through June 20, 2001, at 5150 Florida Blvd., Baton Rouge, LA 70806. This rule will have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Jerry W. Jones
Undersecretary

0105#043

POTPOURRI

**Department of Transportation and Development
Sabine River Compact Administration**

Spring Meeting Notice

The spring meeting of the Sabine River Compact Administration will be held at the Cypress Bend Hotel, Many, LA, June 29, 2001, at 8:30 a.m.

The purpose of the meeting will be to conduct business as programmed in Article IV of the bylaws of the Sabine River Compact Administration.

The spring meeting will be held at a site in Louisiana to be designated at the above described meeting.

Contact person concerning this meeting is:

Kellie Ferguson, Secretary
Sabine River Compact Administration
15091 Texas Highway
Many, LA 71449
318-256-4112

Kellie Ferguson
Secretary

0105#047

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