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EXECUTIVE ORDER MJF 02-46

Hurricane Lili Clean-Up for the City of Scott

WHEREAS, Hurricane Lili has caused extensive damage in the city of Scott;

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

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

WHEREAS, the mayor of the city of Scott has requested that this executive order be issued;

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

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

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

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

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

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

SECTION 6: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#001

EXECUTIVE ORDER MJF 02-47

Hurricane Lili Clean-Up for the City of Crowley

WHEREAS, Hurricane Lili has caused extensive damage in the city of Crowley;

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

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

WHEREAS, the mayor of the city of Crowley has requested that this executive order be issued;

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

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

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

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

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 11th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#002

EXECUTIVE ORDER MJF 02-48

Tropical Storm Isidore and Hurricane Lili Oyster Lease Damage Inspection

WHEREAS, on September 27, 2002, high winds and storm surges associated with Tropical Storm Isidore prompted the Department of Health and Hospitals to order a precautionary closure of molluscan shellfish growing areas 1 through 24 until such time as it could determine no health dangers exist in those areas;

WHEREAS, on October 3, 2002, additional high winds and storm surges associated with Hurricane Lili prompted the Department of Health and Hospitals to order additional precautionary closures of molluscan shellfish growing areas 25, 27, and 28 until such time as it could determine no health dangers exist in those areas;

WHEREAS, the Department of Wildlife and Fisheries has conducted dredge sampling on both public reefs and private oyster leases in those molluscan shellfish growing areas, and has found silt and vegetative overburden present;

WHEREAS, the Department of Health and Hospitals reopened molluscan shellfish growing areas 5 through 13 at official sunrise on Friday, October 11, 2002, and molluscan shellfish growing areas 1 through 4 at official sunrise on Saturday, October 12, 2002, after it determined environmental conditions in those areas are within the requirements of the Model Ordinance of the National Shellfish Sanitation Program, with molluscan shellfish growing areas 14 through 25, 27, and 28 remaining closed pursuant to the precautionary closure orders of September 27, 2002, and October 3, 2002;

WHEREAS, the oyster industry is important to the culture and economy of the state of Louisiana, and silt and vegetative overburden potentially may cause widespread mortality within oyster populations; and

WHEREAS, the best interests of the citizens of the state of Louisiana are served by allowing oyster lessees with leases located in molluscan shellfish growing areas 14 through 25, 27, and 28 which remain closed on Monday, October 14, 2002, pursuant to the precautionary closures ordered by the Department of Health and Hospitals on September 27, 2002, and October 3, 2002, a one (1) day damage inspection period to inspect for silt and vegetative overburden on their oyster leases;

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

SECTION 1: Pursuant to R.S. 29:724 and notwithstanding any other provision of state law, regulation, and/or precautionary closure order, an oyster lessee and/or a licensed oyster harvester having written permission from the oyster lessee, of an oyster lease located in molluscan shellfish growing areas 14 through 25, 27, or 28 which remains subject to precautionary closure on Monday, October 14, 2002, by order of the Department of Health and Hospitals dated September 27, 2002, or October 3, 2002, (hereafter "oyster lease holder") shall be allowed to conduct oyster lease damage inspection activities on such oyster lease on Monday, October 14, 2002, under the following conditions and in accordance with the following procedures:

1. No vessel used by an oyster lease holder for oyster lease damage inspection activities shall have on board or use more than one (1) statutorily authorized dredge;
2. No vessel used by an oyster lease holder for oyster lease damage inspection activities shall have any sacks or containers on board;
3. A vessel used by an oyster lease holder for oyster lease damage inspection activities may have on board not more than a standard measurement of one (1) barrel of oysters as described in R.S. 56:440. All oysters must be returned to the water prior to the vessel departing the oyster lease;
4. Under no circumstances shall an oyster lease holder and/or the vessel of an oyster lease holder remove or transport any oyster or oysters to or from an oyster lease located in a molluscan shellfish growing area closed on Monday, October 14, 2002, pursuant to precautionary closures ordered on September 27, 2002, or October 3, 2002;
5. An oyster lease holder may conduct oyster lease damage inspection activities pursuant to this Order only between 7:00 a.m. and 5:00 p.m. on Monday, October 14, 2002; and
6. For oyster lease damage inspection activities to be conducted on an oyster lease by any person other than the oyster lessee, the person shall have on board the vessel the written permission of the oyster lessee authorizing the oyster lease damage inspection activities on the oyster lease.

SECTION 2: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Departments of Health and Hospitals and Wildlife and Fisheries in implementing the provisions of this Order.

SECTION 3: This Order is effective upon signature and, unless rescinded sooner, shall expire at 5:00 p.m. on Monday, October 14, 2002.

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 11th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#003

EXECUTIVE ORDER MJF 02-49

Hurricane Lili Clean-Up Contracts

WHEREAS, as a result of Hurricane Lili, many political subdivisions of the state of Louisiana are performing hurricane related clean-up services through contractors;

WHEREAS, in order to assist these political subdivisions in coping with the emergency created by Hurricane Lili, the State Licensing Board for Contractors has asked the governor to issue an executive order allowing the political subdivisions of the state of Louisiana to contract with unlicensed contractors for hurricane related clean-up services; and

WHEREAS, the best interests of the citizens of the state of Louisiana are served by issuing such an order;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, in particular, the Louisiana Emergency Assistance and Disaster Act, R.S. 29:701 et seq., do hereby order and direct as follows:

SECTION 1: Pursuant to R.S. 29:724 and notwithstanding any provision of state law or regulation, for a period of thirty (30) days commencing on Thursday, October 3, 2002, and ending on Friday, November 1, 2002, the political subdivisions of the state of Louisiana may award contracts for Hurricane Lili related clean-up services to contractors without a valid license issued by the State Licensing Board for Contractors and such unlicensed contractors shall be deemed to be a licensed contractor for the limited purpose of performing such contracts.

SECTION 2: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

SECTION 3: This Order is effective upon signature and, unless rescinded sooner, shall expire at 11:59 p.m. on Friday, November 1, 2002.

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 11th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#004

EXECUTIVE ORDER MJF 02-50

Hurricane Lili Clean-Up for the Village of Turkey Creek

WHEREAS, Hurricane Lili has caused extensive damage in the village of Turkey Creek;

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

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

WHEREAS, the mayor of the village of Turkey Creek has requested that this executive order be issued;

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

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

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

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

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 16th day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#005

EXECUTIVE ORDER MJF 02-51

Hurricane Lili Clean-Up

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

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

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

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

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

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

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

SECTION 3: As to all work performed on abandoned property, the parish officials of Evangeline Parish shall make a special effort to identify and document any and all

damages which have occurred to the abandoned property prior to the clean-up or removal of debris.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#007

EXECUTIVE ORDER MJF 02-52

Louisiana Spatial Data Infrastructure Initiative

WHEREAS, data that can be analyzed based on its geographic location "spatial data" is essential to planning and operations in many levels of government and in the private sector;

WHEREAS, *LOUISIANA: VISION 2020* has identified public policy goals which require dependable accurate spatial data resources;

WHEREAS, the private sector has a similar need for dependable and accurate spatial data;

WHEREAS, the state of Louisiana will benefit from the cost savings created by eliminating the duplication of data collection, creation, and maintenance;

WHEREAS, in 1995, the Louisiana Legislature created the Louisiana Geographic Information Systems Council (hereafter "LGISC") to guide the sound development of geographic information systems and geographically related information technology for the state of Louisiana;

WHEREAS, the LGISC has developed guidelines for the required sharing of spatial data resources;

WHEREAS, the LGISC has a record of supporting innovative partnerships that leverage federal, state, and private sector resources to create spatial data;

WHEREAS, a need for a National Spatial Data Infrastructure (hereafter "NSDI") to provide a framework for organizing a wide variety of critical data sets nationwide was addressed by Presidential Executive Order No. 12906;

WHEREAS, the state of Louisiana recognizes the need to take part in the National Spatial Data Infrastructure by establishing and maintaining a Louisiana Spatial Data Infrastructure;

WHEREAS, the LGISC promotes the development of ten (10) key framework layers as the foundation of the Louisiana Spatial Data Infrastructure;

WHEREAS, the LGISC has resolved to support the Framework Implementation Team Initiative (I-Team), the project designed by the federal Office of Management and Budget (OMB) to implement state and regional portions of the National Spatial Data Infrastructure, and to lead the I-Team effort in Louisiana;

WHEREAS, the Louisiana I-Team to be effective should include all agencies that produce and distribute spatial data;

WHEREAS, establishing a Louisiana I-Team would leverage the state's financial resources with those of the federal government and the private sector to meet both state and federal data development goals;

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

SECTION 1: The Louisiana Geographic Information Systems Council (hereafter "LGISC") shall serve as the Louisiana Spatial Data Infrastructure Team (hereafter "Louisiana I-Team").

SECTION 2: The LGISC is hereby granted the authority to extend membership in the Louisiana I-Team to the geospatial industry, all levels of government and the geospatial user community to include academia, and the private sector.

SECTION 3: The LGISC shall designate an I-Team Coordinator.

SECTION 4: The Louisiana I-Team shall create a master plan for the development and management of the Louisiana Spatial Data Infrastructure and to involve all sectors of the Louisiana geospatial community. The master plan shall include, but is not limited to the following:

1. Definition and prioritization of framework data layers;
2. Establishment of custodianship of data layers;
3. Assess the needed enhancements to the framework data layers; and
4. Identification of resources needed for the implementation, maintenance, and use of the Louisiana Spatial Data Infrastructure.

SECTION 5: The Louisiana I-Team shall submit a status report on the implementation of the master plan to the governor by September 1st of each year.

SECTION 6: Support staff, facilities, and resources for the Louisiana I-Team shall be provided by the Office of Information Technology.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Louisiana I-Team in implementing the provisions of this Order.

SECTION 8: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#008

EXECUTIVE ORDER MJF 02-53

Hurricane Lili Clean-Up for Acadia Parish

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

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

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

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of October, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#009

EXECUTIVE ORDER MJF 02-54

Bond Allocation CLafayette Economic
Development Authority

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter ~~Athe~~ 2002 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, the Lafayette Economic Development Authority has requested an allocation from the 2002 Ceiling for a project consisting of the acquisition, construction, and equipping of a manufacturing facility located at 410 Commercial Parkway, town of Broussard, parish of Lafayette, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$3,200,000	Lafayette Economic Development Authority	Tube-Alloy Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

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

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

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

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

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#013

EXECUTIVE ORDER MJF 02-55

Bond Allocation CParish of Jefferson
Home Mortgage Authority

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter ~~Athe~~ 2002 Ceiling@);

(2) the procedure for obtaining an allocation of bonds under the 2002 Ceiling; and

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

WHEREAS, Parish of Jefferson Home Mortgage Authority has requested an allocation from the 2002 Ceiling to be used in connection with a program providing mortgage financing for single-family, owner-occupied residences throughout the parish of Jefferson, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2002 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$20,000,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bonds

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before December 20, 2002.

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

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

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

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

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#014

EXECUTIVE ORDER MJF 02-56

Small Purchase Procedures

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

WHEREAS, Executive Order No. MJF 98-20, issued on May 4, 1998, as amended by Executive Order No. MJF 2000-29, issued on August 28, 2000, sets forth the procedure for the procurement of small purchases in accordance with the Louisiana Procurement Code; and

WHEREAS, the issuance of an updated executive order on small purchase procedures shall replace Executive Order Nos. MJF 98-20 and MJF 2000-29;

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

SECTION 1: All departments, institutions, boards, commissions, budget units, and agencies of the executive branch of state government, and the officers and employees thereof, (hereafter "agent") shall observe, be guided by, and implement the specific directives on small purchase procedures set forth in this Order.

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

A. "Small purchases" means (1) any procurement not exceeding twenty thousand dollars (\$20,000), or (2) any procurement of those items listed in Section 5 of this Order, regardless of price, except as noted in paragraphs 5(A)(14) and 5(A)(24).

B. "Delegated purchasing authority" means the dollar amount delegated to an agency by the chief procurement officer of state central purchasing, as defined in R.S. 39:1556(3).

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

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

A. Those items purchased from an existing state contract; and

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

SECTION 4: Except as otherwise provided in this Order, all small purchases shall be made in accordance with the following minimum procedures¹:

A. No competitive bidding is required
(1) for purchases not exceeding five hundred dollars (\$500), or

(2) for purchases made with the LaCarte Procurement Card not exceeding \$1,000 per single purchase transaction.

B. Price quotations shall be solicited by telephone, facsimile, or other means from three (3) or more bona fide, qualified bidders

(1) for purchases exceeding five hundred dollars (\$500) but not exceeding five thousand (\$5,000), and

(2) for purchases made with the LaCarte Procurement Card exceeding one thousand dollars (\$1,000) but not exceeding five thousand dollars (\$5,000). The purchase contract shall be awarded on the basis of the lowest responsive price² quotation solicited from the bona fide, qualified bidders. Whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified small and emerging business. Agency files shall document and list all solicited bidders and each bidders contact person, summarize bid responses, indicate the awarded bid, and state

the reason why any lower bid was rejected. Agency files should also contain written confirmation of the bid from the successful bidder.

C. Written price quotations shall be solicited from five (5) or more bona fide, qualified bidders for purchases exceeding five thousand dollars (\$5,000) but not exceeding twenty thousand dollars (\$20,000). The purchase contract shall be awarded on the basis of the lowest responsive price quotation received from the bona fide, qualified bidders. Whenever possible, at least two (2) of the bona fide, qualified bidders shall be certified small and emerging businesses. Written solicitations received by facsimile or by hand delivery shall allow for bids to be accepted for a minimum period of five (5) calendar days. Written solicitations received by mail shall allow for bids to be accepted for a minimum period of ten (10) calendar days.

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

Agency files shall document and list all solicited bidders and each bidder's response, summarize bid responses, indicate the awarded bid, and state the reason why any lower bid was rejected.

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

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

- (1) Repair parts for equipment obtained from an authorized dealer³;
- (2) Equipment repairs obtained from an authorized dealer or by telephone or facsimile solicitation to at least three (3) bona fide, qualified bidders; whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified small and emerging business;
- (3) Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract, obtained from an authorized dealer or by telephone or facsimile solicitation to at least three (3) bona fide, qualified bidders; whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified small and emerging business;
- (4) Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;
- (5) Livestock purchased at public auction;
- (6) Purchasing or selling transactions between state budget units and other governmental agencies;
- (7) Publications and/or copyrighted materials purchased directly from the publisher or copyright holder;
- (8) Publications and/or copyrighted materials purchased by libraries from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders;
- (9) Public utilities and services provided by local governments;

(10) Prosthetic devices, implantable devices, and devices for physical restoration, which are not covered by a competitive state contract;

(11) Educational training and related resources (except equipment) used to enhance the performance of state employees, including memberships in professional societies and organizations, except for customized training which is covered under R.S. 39:1481, et seq;

(12) Purchases for clients of Blind and Vocational Rehabilitation programs not covered by competitive state contract which are federally funded at a rate of at least 78.7 percent, regulated by Title 34, Parts 361, 365, 370, and 395 of the Code of Federal Regulations, and in accordance with OMB Circular A-102;

(13) Materials, supplies, exhibitor fees, and exhibit booths at conferences, seminars, and work shops, for participation in promotional activities which enhance economic development may be procured in accordance with this Section with the approval of the department secretary, or agency equivalent, if not covered by competitive state contract;

(14) Wire, related equipment, time and material charges to accomplish repairs, adds, moves, and/or changes to telecommunications systems not exceeding two thousand five hundred dollars (\$2,500);

(15) Working class animals trained to perform special tasks, including but not limited to narcotics detection, bomb detection, arson investigation, and rescue techniques;

(16) Food, materials and supplies for teaching and training where the purchasing, preparing, and serving of food is part of the regularly prescribed course;

(17) Shipping charges and associated overseas screening and broker fees from an international origin to a domestic destination;

(18) Parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail;

(19) Renewal of termite service contracts;

(20) Purchase of supplies, operating services, or equipment for Louisiana Rehabilitation Services, Traumatic Head and Spinal Cord Injury Trust Fund Program⁴;

(21) Purchase of clothing at retail necessary to individualize clients at state developmental centers in compliance with Federal Regulations for ICF/MR facilities;

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

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

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

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

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

(2) Food, materials, and supplies needed for:

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

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

(3) Convention and meeting facilities⁵;

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

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

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

(7) Aircraft parts, repairs, inspections, and modifications approved by the head of the agency, the head of Division of Administration Flight Operations, or its designee, and performed by an FAA-certified mechanic and/or at an FAA-certified repair station in accordance with FAA requirements; or

(8) Air and bus charters, in accordance with Policy & Procedure Memorandum No. 49 - General Travel Regulations, including group travel that does not qualify for commercial rates available to individual travelers.

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

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

SECTION 8: Executive Order No. MJF 98-20, issued on May 4, 1998, and Executive Order No. MJF 2000-29, issued on August 28, 2000, are hereby rescinded and terminated.

SECTION 9: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of October, 2002.

¹No provision of this Order shall be construed as a limitation on the number of bids to be solicited prior to making a purchase or procurement.

²The terms "price" and "bid" are used interchangeably in this Order to mean the amount of money offered as consideration for the sale of a specified item.

³This provision does not apply to the stocking of parts.

⁴Although competitive bidding is not required under this paragraph, whenever practicable, three (3) bid quotations from bona fide, qualified bidders should be obtained. Whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified small and emerging business.

⁵However, any associated food or lodging must be in accordance with Policy & Procedure Memorandum No. 49 - General Travel Regulations.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0211#024

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Honey; Testing and Sale (LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. These Rules are being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The Commissioner has promulgated these rules and regulations to implement standards relating to Chloramphenicol in honey that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All honey sold in Louisiana must meet the standards adopted by the Commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, including bees (21 CFR 530.41).

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

Recently, Canada, the United Kingdom, the European Union, and Japan have found chloramphenicol in honey imported from China. The Department has found chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 Percent of the samples are positive for chloramphenicol. The possibility exists that other countries may export chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary to immediately implement testing of honey for Chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with Chloramphenicol. These Rules become effective upon signature, November 7, 2002, and will remain in effect 120 days, unless renewed by the Commissioner or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§141. Chloramphenicol in Honey Prohibited; Testing and Sale of

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, including bees, which produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Honey Any honey, whether raw or processed.

B. No honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana if such honey or food containing honey contains Chloramphenicol.

C. No honey that is harvested from or produced, processed or packed in a geographic area, that the Commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, including bees, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No honey from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

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

producing animals, or in products from such animals, in that geographic area.

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

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

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

1. Sampling

a. The numbers of samples that shall be taken are as follows.

i. Two samples are to be taken of honey that is in lots of fifty pounds or less.

ii. Four samples are to be taken of honey that is in lots of fifty-one to one hundred pounds.

iii. Twelve samples are to be taken of honey that is in lots of one hundred and one pounds up to fifty tons.

b. For honey in bulk wholesale containers, each sample shall be at least one pound or twelve fluid ounces and must be pulled at random throughout each lot.

c. For packaged honey, each sample shall be at least eight ounces in size and shall be taken at random throughout each lot.

d. If the honey to be sampled consists of packages of honey grouped together, but labeled under two or more trade or brand names, then the honey packaged under each trade or brand name shall be sampled separately. If the honey to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

e. A composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of honey and shall be tested individually.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of honey up to and including eight ounces, use the entire sample. If honey sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include

r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The Commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results above 1 ppb must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

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

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

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

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

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

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

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

8. Upon the Department's actual receipt of a copy of the certified test results and written documentation required to accompany the certified test results, the honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the Commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment of such honey or food containing honey, and be attached to the documentation submitted with every shipment sent to each location in Louisiana, or shall be immediately accessible to the Department, upon request, from any such location.

F. Any person who is seeking to bring honey, or any food containing honey, that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such honey or food containing honey in Louisiana shall be responsible for having the honey, sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full

and complete compliance with all the provisions of this Section.

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

H. If any certified test results are rejected by the Commissioner then any person shipping or holding the honey or food containing honey will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the Commissioner. Thereafter, any such person shall abide by such order until the Commissioner lifts the order in writing. Any such person may have the honey retested in accordance with this Section and apply for a lifting of the Commissioner's order upon a showing that the provisions of this Section have been complied with and that the honey is certified as being free of Chloramphenicol.

I. The Department may inspect any honey and any food containing honey, found in Louisiana, and take samples for testing.

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

K. The Department may take physical possession and control of any honey or any food containing honey that violate the requirements of this Section if the Commissioner finds that the honey or food containing honey presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The Commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals, in certain geographic area(s).

1. The geographic area or areas are:
 - a. the country of the People's Republic of China;
 - b. the country of Thailand.

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

M. All records and information regarding the distribution, purchase and sale of honey or any food containing honey shall be maintained for two years and shall be open to inspection by the Department.

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

O. The effective date of this Section is November 7, 2002.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture & Forestry, Office of the Commissioner, LR 28:

Bob Odom
Commissioner

0211#028

DECLARATION OF EMERGENCY

Department of Economic Development Office of Business Development Louisiana Economic Development Corporation

Matching Grants Program
(LAC 19:VII.Chapter 79)

The Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:9536(B), adopts the following Emergency Rule implementing the Louisiana Matching Grants Program as authorized by R.S. 51:2312. This Emergency Rule is adopted October 29, 2002 in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective October 29, 2002 and shall remain in effect for the maximum period allowed under the Act or until adoption of a permanent Rule, whichever occurs first.

The Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation has found an immediate need to provide financial assistance to provide matching grant funds to leverage state and local funding in order to maximize matching funds from federal and other grants for the purpose of assisting, whether individually or collectively, qualified Louisiana businesses, minority-owned businesses, high-growth potential businesses, women-owned businesses, small business enterprises and disabled persons' business enterprises as those terms are defined by R.S. 39:2303, and may also include providing matching funding for federal grants for infrastructure and basic infrastructure projects under the Louisiana Economic Development Award Program. Without this Emergency Rule the public welfare may be harmed as a result of the inability to obtain Federal grant funds, resulting in the loss of industry and jobs in this State.

Title 19

CORPORATIONS AND BUSINESS

Part VII. Economic Development Corporation

Subpart 11. Louisiana Matching Grants Program

Chapter 79. Matching Grants Program

§7901. Purpose

A. The purpose of this program is to leverage State and Local funding in order to maximize matching funds from Federal and other grants for the purpose of assisting, whether individually or collectively, qualified Louisiana businesses, minority-owned businesses, high-growth potential businesses, women-owned businesses, small business enterprises and disabled persons' business enterprises as those terms are defined by R.S. 39:2303, in such manner and as may be determined by the Board in its discretion, and may also include providing matching funding for Federal grants for infrastructure and basic infrastructure projects under the Louisiana Economic Development Award Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7903. Definitions

Applicant the public entity requesting matching grant funds under this program. The public entity may be joined in the application by any other entity.

Award the funding of matching grant money under this program for eligible applicants.

Award Agreement the agreement of contract hereinafter referred to between the public entity, DED and LEDC, and where applicable, any other entity through which the parties by cooperative endeavor or otherwise, set forth the terms, conditions and performance objectives of the award provided pursuant to these rules.

DEDC the Louisiana Department of Economic Development.

Project a proposal by a public entity that promotes economic development for which matching grant funds are sought under this program. Where matching grant funds are sought for projects that are defined as Basic Infrastructure or Infrastructure under the EDAP Rules, then the rules pertaining to EDAP, in addition to these rules, apply to the determination as to the funding of the matching grant funds.

Public Entity the applying public or quasi-public entity that will be responsible for receiving and administering the performance and oversight of the project and for supervising compliance with the terms, conditions and performance objectives of the award agreement.

Secretary the Secretary of the Department of Economic Development, who is also the President of LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7905. General Principles

A. The following general principles will direct the administration of the Matching Grant Award Program.

1. *Awards* are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An *award* must reasonably be expected to be a significant factor in improving or enhancing economic development, whether in a particular circumstance, or overall.

3. *Awards* must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. *Awards* that promote retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the *award*.

6. Appropriate cost sharing among *project* beneficiaries is a factor in the consideration of the award.

7. Whether or not an *award* will be made is entirely at the discretion of the LEDC Board and shall depend upon the facts and circumstances of each case, funds available, funds already allocated, and other such factors as the board may, in its discretion deem to be pertinent. The grant or rejection of an application for an award shall not establish any precedent and shall not bind the board to any future course of action with respect to any application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7907. Eligibility

A. In order to be eligible for a Matching Grant Award pursuant to this program, the *applicant* must demonstrate the following to the satisfaction of the board:

1. The *award* sought must be consistent with the Principles set forth above, the *applicant* must demonstrate a need for the matching grant funds, the ability to administer the funds in accordance with all applicable laws, rules and regulations governing the receipt of the grant, and that management are, or will be, in place to provide the services the grant is intended to provide. Where it is represented that certain contingent actions will be taken in order to comply with these conditions, then the LEDC may, in its discretion, withhold funding until there is substantial performance of the contingencies.

2. Preference will be given to *applicants* representing rural communities, or those communities designated as renewal communities.

3. The *applicant* must demonstrate that the matching funds and resulting grant from available matching funds will serve, individually, or collectively, the purposes of the Program as defined in §7901 and the general principles defined in §7905 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7909. Application for Matching Grant

A. The *applicant* must submit an application to the DED or LEDC on a form provided which shall contain the following information.

1. A copy of the application or a valid description of the grant for which matching funds are sought.

2. A letter of commitment or such other information as will provide the board necessary information to assure that if the funds are made available and other necessary and appropriate steps are taken, the grant will be matched by the granting authority.

3. An explanation for the reason that LEDC provide the match to the grant.

4. A plan which shall include a budget as to how and when the match and the grant are to be spent.

5. Résumés or other appropriate information on the grant administrator or grant monitor.

6. A statement that reflects that the value of the matching funds to the project and to the economic development of the state sought through the project will equal or exceed the benefits given to the recipient of the Grant funds.

7. How matching the grant funds will serve the best interests of the businesses defined in the Purposes set forth in §7901 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

§7911. Matching Grant Funding

A. The *award* shall not be drawn down before the grant is funded by the federal or other entity that is providing the funds for which the matching grant is being awarded.

B. There shall be a contribution from the applicant that in the opinion of the board constitutes a commitment to the project for which the funds are being sought.

C. The Louisiana Economic Development Corporation may allocate funds to this program on a case by case basis and may, by vote, determine a maximum amount to be allocated for the fiscal year.

D. This program shall be evaluated by the board in one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Louisiana Economic Development Corporation, LR 28:

Don J. Hutchinson
Secretary

0211#019

DECLARATION OF EMERGENCY

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

Scholarship/Grant Programs
(LAC 28:IV.703, 1103, 1705, and 2103)

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

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

This Declaration of Emergency is effective October 10, 2002, 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. - D. ...

E. Students graduating in academic years 1996-97 and 1997-98 who qualified by reduction of the foreign language requirement must provide LASFAC a copy of their college transcript showing completion of one or more foreign

language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year. High School Graduates of 1996-97 and 1997-98 who meet the requirements of §703.A.4.b. or d. or §803.A.4.b. or d. of these rules and who have not been discharged with an undesirable, bad conduct or dishonorable discharge must meet the foreign language requirement no later than one year after the date of separation from active duty.

F. - 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 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR:28:1760 (August 2002), LR 28:

Chapter 11. Rockefeller State Wildlife Scholarship

§1103. Establishing Eligibility

A. - A.7. ...

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

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

c. If, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 28:

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

§1705. Notification of Certified Students

A. - B. ...

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student: "Although you have been certified as academically eligible for a Tuition

Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and
2. you must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and
3. you must annually apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and
4. you must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:644 (April 1998), amended LR 24:1913 (October 1998), repromulgated LR 27:1864 (November 2001), amended LR 28:

Chapter 21. Miscellaneous Provisions and Exceptions
§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

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

4. Temporary Disability

a. - b.i. ...

ii. a written statement from a qualified professional of the existence of a temporary disability and a description of the injury, illness, or required surgery, including the dates of treatment, the treatment required, the prognosis, the length of the recovery period, the beginning and ending dates of the doctor's care, and opinions as to the impact of the disability on the student's ability to attend school; and

4.b.iii - 7.c. ...

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, guardian, sister or brother, step sibling, or grandparent dies.

8.b.-11.c. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:

George Badge Eldredge
General Counsel

0211#021

DECLARATION OF EMERGENCY
Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs CDefinitions
(LAC 28:IV.301)

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

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

This Declaration of Emergency is effective October 28, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

* * *

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

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

* * *

TOPS Cumulative Grade Point Average (Academic) Cthe grade point average calculated by LOSFA on all academic courses taken by a student at postsecondary institutions to determine whether the student has maintained Steady Academic Progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in non-academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative Grade Point Average (Non-Academic) Cthe grade point average calculated by LOSFA on all non-academic courses taken by a student at postsecondary institutions to determine whether the student has maintained Steady Academic Progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all non-academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Non-academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative High School Grade Point Average Ceffective for high school graduates beginning with Academic Year (High School) 2002-2003, the grade point average calculated by LOSFA including only the grades achieved in those courses that were used to satisfy core curriculum requirements. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the TOPS Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade.

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

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

For school's awarding a maximum of 5 points for honors courses, the formula shall be used to convert the honors course grade of "C" as shown in the following example.

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

By cross multiplying,
 $5X = 12; X = 2.40$

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

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:

George Badge Eldredge
 General Counsel

0211#017

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
 Program C Definitions (LAC 28:VI.107)

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 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 this Emergency Rule are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective October 28, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher

Education Savings

Chapter 1. General Provisions

§107. Applicable Definitions

Maximum Allowable Account Balance Cthe amount, determined annually, and effective on August 1 of each year, and expressed as a current dollar value, which is equal to

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

* * *

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

* * *

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:

George Badge Eldredge
General Counsel

0211#018

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

Commercial Laboratories Pending Accreditation
(LAC 33:I.4501 and 4719)(OS039E3)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and R.S. 30:2074, which allows the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule.

This is a renewal of Emergency Rule OS039E, which was effective November 16, 2001, and renewed effective March 16, 2002 and July 14, 2002. The department has begun rulemaking (Log #OS039) to promulgate this regulation.

The department relies on analytical data submitted both directly and indirectly to the department to determine compliance with both state and federal regulations. As a result of deadlines established in current Louisiana regulations, the department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This rule will allow the department to accept data from laboratories that have submitted complete applications and supporting documents,

have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees. A finding of imminent peril to public health, safety, and welfare is based on the inability to accept and review analytical data. Furthermore, the environmental analytical laboratory industry could suffer a loss of jobs.

The department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*, due to the fact that they are licensed under other department regulations and to prevent an additional economic burden and duplication of effort by the department.

The department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The department must have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment.

This Emergency Rule is effective on November 11, 2002, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS039E3, you may contact the Regulation Development Section at (225) 765-0399.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. - D. ...

E. This Subpart shall not apply to the following:

1. laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals; and

2. personnel monitoring services in accordance with LAC 33:XV.430.C and to those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 29:

Chapter 47. Program Requirements

§4719. Implementation

A. - B. ...

C. The department will accept analytical data generated by laboratories that do not comply with the deadlines established in Subsection B of this Section for accreditation if such laboratories:

1. have submitted a complete application form and supporting documents;

2. have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory; and

3. have paid appropriate fees.

D. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:

L. Hall Bohlinger
Secretary

0211#0023

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

Public Notification of Contamination (LAC 33:I.Chapter 1)(OS042E1)

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary to comply with the Governor's October 1, 2001, Executive Order No. MJF 2001-46, entitled "Environmental Contamination Notification." The order states, "the health, safety, and welfare of the people of Louisiana would be improved, and the government would better fulfill its public trust obligations, if those executive branch agencies notified people who may be exposed to environmental contamination when such agency has sound scientific knowledge of environmental contamination that exceeds the applicable federal and state health standards and that may cause adverse health effects."

This Emergency Rule is effective on November 7, 2002, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. This is a renewal of Emergency Rule OS042E, which was effective on July 10, 2002. The department is drafting a rule to promulgate these provisions. For more information concerning OS042E1, you may contact the Regulation Development Section at (225) 765-0399.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures Chapter 1. Public Notification of Contamination

§101. Purpose

A. The purpose of this Chapter is to establish requirements for notifying those members of the public that the department determines are likely to be adversely affected by a release.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§103. Definitions

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Applicable Federal or State Health and Safety Standard—such standards the department, based on its knowledge and expertise, determines are applicable to the release site.

Department—the Department of Environmental Quality.

Off-Site—areas beyond the property boundary of the release site.

Person—any individual, municipality, public or private corporation, partnership, firm, the State of Louisiana, political subdivisions of the State of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§105. Notification Requirements

A. Notice shall be provided when the department confirms off-site impact that exceeds the applicable federal or state health and safety standard and the department determines that the off-site impact poses a risk of adverse health effects.

B. The department shall issue notice of a release to persons, within the area of contamination, where the department determines that the release poses a risk of adverse health effects.

C. The public notice shall be provided by means reasonably calculated to reach those members of the public directly affected by the release, as determined by the department, and shall provide information regarding potential adverse health effects posed by the contamination, as determined by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

L. Hall Bohlinger
Secretary

0211#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Practical Nurse Examiners

Appointing Authority (LAC 46:XLVII.303)

The Board of Practical Nurse Examiners, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979, adopts, effective October 24, 2002, an amendment to §303.A.1. This Emergency Rule shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

This action is being taken to ensure that the board may act, without delay, to protect the citizens of the state against misconduct by board employees. In addition, this action will protect the board against an anticipated challenge to its lawfully delegated authority to take adverse actions against civil service employees. Implementation of this emergency rule will have no fiscal impact.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§303. Additional Duties and Powers of the Board

A. In accordance with the Louisiana Statutes, Title 37, Section 969, the board shall have all such powers and duties as written. In addition the board shall:

1. appoint an executive director and associate executive director who shall be professional nurses currently licensed in the state of Louisiana and who shall serve as the executive staff of the board. The executive director, or in her absence the associate executive director, serves as the appointing authority of the board;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human

Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended LR 26:2614 (November 2000), LR 28:

Claire Doody Glaviano
Executive Director

0210#11

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies
Small Rural 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. 34:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule May 20, 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 25, Number 5). This Rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 Rule was subsequently amended to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the bureau amended the March 20, 2000 rule to revise the disproportionate share qualification criteria for small rural hospitals (*Louisiana Register*, Volume 27, Number 3).

Act 35 of the 2002 First Extraordinary Session of the Louisiana Legislature provides changes to the criteria used to define rural hospitals. In compliance with Act 35, the bureau revised the disproportionate share qualification criteria for small rural hospitals. This Emergency Rule is being adopted to continue the provisions of the August 5, 2002 Rule.

This action is being taken to enhance federal revenues.

Emergency Rule

Effective for dates of service on and after December 4, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the disproportionate share payment methodologies for hospitals by incorporating the following revisions.

III. Reimbursement Methodologies

A. ...

B. Small Rural Hospitals

1.a.-g. ...

h. has no more than 60 hospital beds or has notified the Department of Health and Hospitals as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located, as measured by the 2000 census,

i. in a municipality with a population of less than 13,000; and

ii. in a parish with a population of less than 32,000.

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

Interested persons may submit written comments to Ben A. Bearden, 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

0211#087

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program
Vagus Nerve Stimulators

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage for durable medical equipment and supplies under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. In concurrence with the recommendations of the Medical Practices Committee, the bureau established medical necessity criteria for the prior authorization of vagus nerve stimulators. Vagus nerve stimulators (VNS) are implantable devices used to assist in the control of seizures related to epilepsy. This Emergency rule is being adopted to continue the provisions contained in the December 1, 2002 Rule.

Emergency Rule

Effective November 29, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following criteria for prior authorization of vagus nerve stimulators (VNS) under the Durable Medical Equipment Program. The VNS is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician.

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary, the patient has medically intractable epilepsy and meets one or more of the following criteria:

1. is 12 years of age or older, although case by case consideration may be given to younger children who meet all other criteria and have sufficient body mass to support the implanted system; or

2. has a diagnosis of partial epilepsy confirmed and classified according to the International League Against Epilepsy classification. The patient may also have associated generalized seizures, such as tonic, tonic-tonic, or atonic. The VNS may have efficacy in primary generalized epilepsy

as well. Video electroencephalographic monitoring is usually necessary for confirmation and classification of seizure type; or

3. has seizures that resist control by antiepilepsy treatment, with adequately documented trials of appropriate antiepilepsy drugs or documentation of the patient's inability to tolerate these medications; or

4. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery; or

5. is experiencing at least four to six identifiable partial onset seizures each month. The patient must have had a diagnosis of intractable epilepsy for at least two years. The two year period may be waived if it is deemed that waiting would be harmful to the patient; or

6. has undergone Quality of Life measurements (QOL). The choice of instruments used for the QOL must assess quantifiable measures of day to day life in addition to the occurrence of seizures. In the expert opinion of the treating physician, and clearly documented in the request for prior authorization, there must be reason to believe that QOL will improve as a result of the VNS. This improvement should be in addition to the benefit of seizure frequency reduction; or

7. has progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation. Taking into consideration the additional diagnosis, the treating physician must document the benefits of VNS.

B. Exclusion Criteria. Medicaid reimbursement for implantation of a VNS shall not be made if the patient meets one or more of the following criteria:

1. has psychogenic seizures or other nonepileptic seizures; or

2. has systemic or localized infections that could infect the implanted system; or

3. the patient's body mass is insufficient to support the implanted system.

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 at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0211#089

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment
ProgramCPsychological and Behavioral Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopts the following Emergency Rule in the Medical Assistance

Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing, currently provides coverage for an extensive range of medical services, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services for Medicaid recipients up to the age of 21. As a result of a lawsuit, the Department was ordered to make psychological and behavioral management services available to class members who meet certain criteria. The Bureau adopted an Emergency Rule to establish recipient criteria and the array of psychological and behavioral services available under the EPSDT Program (*Louisiana Register*, Volume 28, Number 4). The bureau repealed the April 20, 2002 Rule and adopted new provisions governing EPSDT Psychological and Behavioral Services.

This action is being taken to promote the health and welfare of Medicaid recipients who are 21 years of age or younger and to ensure access to psychological and behavioral services by encouraging the participation of qualified providers in the Medicaid Program. This Emergency Rule is being adopted to continue the provisions of the August 5, 2002 Rule.

Emergency Rule

Effective December 4, 2002 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, repeals the April 20, 2002 Rule and adopts the following provisions governing Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) Psychological and Behavioral Services.

A. Recipient Criteria

In order to be eligible for services, a Medicaid recipient must be under the age of 21, be a member of the Chisholm lawsuit class and meet one of the following criteria:

1. have a diagnosis of Pervasive Developmental Disorder (PDD) according to a clinically appropriate diagnostic screening tool or other assessment; or
2. have an impaired functional status that can be addressed by psychological treatment on an instrument or other assessment of individual functioning that is appropriate for individuals with developmental disabilities; or
3. engage in behaviors so disruptive or dangerous that harm to others is likely (e.g., hurts or attempts to hurt others, such as hitting, biting, throwing things at others, using or threatening to use a weapon or dangerous object). Behaviors are recurrent, not a single instance; or
4. engage in behaviors that have resulted in actual physical harm to the child himself/herself, such as bruising, lacerations or other tissue damage, or would result in physical harm if the child was not physically restrained. Behaviors are recurrent, not a single instance. Behaviors are not the result of clinically suicidal intent.

B. Covered Services

The following services, as identified by the accompanying Current Physicians Terminology (CPT) procedure codes, are covered under EPSDT Psychological and Behavioral Services:

1. necessary evaluations - CPT codes 90801 and 96100;
2. family education and training - CPT code 90847;
3. clinical interventions - CPT codes 90804 and 90806; and
4. periodic follow-up - CPT codes 90847, 90804, and 90806.

C. Provider Qualifications

In order to receive reimbursement as a Medicaid provider of EPSDT Psychological and Behavioral Services, a psychologist must provide verification that he or she meet all of the following qualifications:

1. have a PH.D;
2. be licensed to practice within the State of Louisiana; and
3. be professionally qualified to treat children, or to treat children and/or adults with PDD, including autism and/or developmental disorders.

D. Reimbursement Methodology

Reimbursement for EPSDT psychological and behavioral services shall be based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 1.

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

0211#086

DECLARATION OF EMERGENCY

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

Public Nursing Facilities C Reimbursement Methodology

Editor's Note: The Office of the State Register received this Emergency Rule on November 31, 2002.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June, 1984 to establish a prospective reimbursement methodology for nursing facilities participating in the Medical Assistance Program (*Louisiana Register*, Volume 10, Number 6). The June 20, 1984 rule was subsequently amended to revise the reimbursement methodology for state-operated nursing facilities (*Louisiana Register*, Volume 16,

Number 4). The department now proposes to revise the reimbursement methodology for state-operated nursing facilities in order to reimburse these facilities in accordance with the Medicare upper payment limit.

This action is necessary to improve the quality of care given to patients in state operated nursing facilities. It is estimated that the implementation of this proposed emergency rule will increase expenditures to state operated nursing facilities by approximately \$949,047 for state fiscal year 2002-03.

Emergency Rule

Effective October 14, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the April 20, 1990 rule governing the reimbursement methodology for state-operated nursing facilities. The aggregate prospective payment rates for these facilities will be calculated on a quarterly basis using the state's best estimate of what facilities would be paid under Medicare's prospective payment system for skilled nursing facilities. The acuity measurements used in the quarterly rate calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to these gross Medicare prospective payment rates will be made to account for differences in coverage between the Medicare and Medicaid programs based on Medicare's principles of reimbursement and methods of cost apportionment contained in the HIM-15 manual that are applicable to skilled nursing facilities.

Implementation of this emergency rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

0211#016

DECLARATION OF EMERGENCY

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

**Home and Community Based Services Waivers
Provider Training Requirement**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the

Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final rule, whichever occurs first.

Under the provisions of Section 1915(c) of the Social Security Act, states may provide services not generally reimbursable by Medicaid to groups of individuals in the community who meet the qualifications for institutional care. Such programs are known as Home and Community Based Services waivers.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services currently administers five Home and Community Based Services Waiver Programs: the Elderly and Disabled Adult Waiver, the Mental Retardation/Developmental Disabilities Waiver, the Children's Choice Waiver, the Personal Care Attendant Waiver, and the Adult Day Health Care Waiver.

Participation by service providers in these programs is voluntary. Knowledge of the waiver populations as well as the supports and services available in the community and from the Bureau of Community Supports and Services is considered crucial for the effective delivery of services by these providers. Act 13 of the 2002 Regular Session of the Louisiana Legislature authorizes the Department of Health and Hospitals to suspend the enrollment of new private MR/DD waiver service providers until such time as it has completed drafting the minimum qualifications and standards of performance expected of such providers. In order to increase provider knowledge of available supports and services and ensure the quality of services rendered, the department adopted an Emergency Rule requiring attendance at the bureau's provider enrollment orientation sessions prior to enrollment as a Medicaid provider of services for certain designated waivers. This Emergency Rule is being adopted to continue the provisions contained in the August 4, 2002 Rule.

This action is being taken to protect the health and welfare of Medicaid waiver recipients by enhancing provider knowledge and promoting the quality of service delivery.

Emergency Rule

Effective December 3, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following regulations governing participation as a private Medicaid provider in designated Home and Community Based Services Waivers.

Attendance at a provider enrollment orientation shall be required prior to enrollment as a private Medicaid provider of services under the following waivers:

1. the Elderly and Disabled Adult Waiver;
2. the Mental Retardation/Developmental Disabilities Waiver; and
3. the Children's Choice Waiver.

The frequency of the provider enrollment orientations shall be determined by the Bureau of Community Supports and Services, but they shall be conducted at least semi-annually.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and

Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is 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

0211#088

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives
Adult Education, Basic Skills Training,
Job Skills Training and Retention Services
(LAC 67:III.5507)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend §5507 effective August 14, 2002. This Emergency Rule is effective December 12, 2002, and will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of August 14, 2002, since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (The final Rule regarding the Adult Education, Basic Skills Training, Job Skills Training, and Retention Services will be published in January 2003).

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the Office of Family Support will amend §5507, Adult Education, Basic Skills Training, Job Skill Training and Retention Services Program, to revise language regarding the TANF partner identified in the Memorandum of Understanding (MOU). The agency initially entered into an MOU with the Workforce Commission; however, the MOU now includes the Louisiana Community and Technical College System as a TANF partner involved in the administration of this initiative. To avoid future amendments to the Code subsequent to altering the TANF partners, language is being revised to be non-specific in regards to whom the Agency contracts with or enters into an MOU.

The authorization for emergency action is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

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

Chapter 55. TANF Initiatives

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to create programs to provide adult education, basic skills training, jobs skills training, and retention services to low-income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), LR 28:

Gwendolyn Hamilton
Secretary

0211#049

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives
Women's and Children's Residential and
Prevention Treatment Program (LAC 67:III.5521)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend §5521 effective November 8, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Act 12 of the 2001 Regular Session of the Louisiana Legislature authorized the Office of Family Support to implement the TANF Initiative, Women and Children's Residential Prevention and Treatment Program, through a Memorandum of Understanding with the Office of Addictive Disorders. Eligibility factors were established which limited services to needy families who were eligible for certain types of benefits.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature and in an effort to expand the groups targeted for services under this program, the agency will include needy families who have earned income at or below 200 percent of the federal poverty level.

The authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5521. Women and Children's Residential Prevention and Treatment Program

A. - B. ...

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or effective October 1, 2002, who has earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 29:

Gwendolyn Hamilton
Secretary

0211#046

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial King Mackerel Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department, by the Commission in its resolution of January 3, 2002, to close the 2002 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the Secretary hereby declares:

Effective 12:00 noon October 25, 2002, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2003. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel whether taken from within or without Louisiana state waters. Effective with this closure, no person shall possess king mackerel in excess of a daily bag limit within or without Louisiana state waters. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The Secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in Federal waters of the Gulf of Mexico will close at 12:00 noon October 25, 2002. Closing the season in State waters is necessary to provide effective rules and efficient enforcement for the fishery and to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0211#012

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Season Closure

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

Upon the authority of R.S. 56:6.1 and the authority granted to the Secretary by the Commission to close seasons, deer hunting in the following described portion of the state is hereby closed, effective thirty minutes before sunrise on October 12, 2002, and shall remain closed to deer hunting until further notice. This closure shall apply to that portion of Louisiana north and west of US Hwy. 51 from US 61 to Frenier Rd, north of Frenier Road to Lake Pontchartrain, west of Lake Pontchartrain to Tangipahoa River, west bank of Tangipahoa River to LA Hwy. 22, south of LA Hwy. 22 to LA Hwy. 70 in Sorrento, east of LA Hwy. 70 to LA Hwy. 3125, north of LA Hwy. 3125 to LA Hwy. 641, north and west of Hwy. 641 to US Hwy. 61, north of US Hwy. 61 to Hwy. 51. The decision to close deer hunting was based upon the flooding that has continued in this area since Tropical Storm Isidore, Hurricane Lili, and the recent rainfall that has occurred since the hurricane. This season closure will remain in effect until the decision is made by the Department Secretary to reopen deer hunting.

James H. Jenkins, Jr.
Secretary

0210#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer Season Re-Opening

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

Deer hunting in the following described portion of the state previously closed on October 12, 2002 (that portion of Louisiana north and west of US Hwy. 51 from US 61 to Frenier Road, north of Frenier Road to Lake Pontchartrain, west of Lake Pontchartrain to Tangipahoa River, west bank of Tangipahoa River to LA Hwy. 22, south of LA Hwy. 22 to LA Hwy. 70 in Sorrento, east of LA Hwy. 70 to LA Hwy.

3125, north of LA Hwy. 3125 to LA Hwy. 641, north and west of Hwy. 641 to US Hwy. 61, north of US Hwy. 61 to Hwy. 51) will re-open 30 minutes before sunrise on October 26, 2002.

James H. Jenkins, Jr.
Secretary

0210#11

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Excise Tax (LAC 76:VII.365)

In accordance with the emergency provisions of the Administrative Procedure Act, the Wildlife and Fisheries Commission does hereby promulgate this Declaration of Emergency relative to the excise tax on shrimp.

Act 75 of the 2002 Regular Session of the Louisiana Legislature enacted a shrimp excise tax to be collected on shrimp harvested in Louisiana waters and shrimp imported into Louisiana. The legislation mandates that the Department begin the process for collection of this excise tax on July 1, 2002, the effective date of the Act. In order to meet the statutorily-mandated timeline, and to provide the mechanism which will allow wholesale/retail seafood dealers to comply with the Act, and to put other provisions in place which are essential for the effective administration of the program, the following Rule must be promulgated by a Declaration of Emergency.

Further, effectively enforcing regulations which enable the identification of both domestically-harvested and imported shrimp will provide mechanisms to more adequately monitor harvest information of shrimp in Louisiana.

Such regulations will further enable the identification of imported shrimp, which may be subject to testing for the antibiotic chloramphenicol under rules and regulations adopted by the Louisiana Department of Agriculture and Forestry. Chloramphenicol is used in some countries in connection with the production of shrimp and other seafood products. The United States Food and Drug Administration has banned the use of chloramphenicol in animals which are raised for human consumption. In January of 2002, the European Union banned imported Chinese products intended for human consumption or for use in animal feed, as a result of the discovery of chloramphenicol residues in seafood products harvested from and produced in that country.

Implementation of this Emergency Rule will also provide information relative to the amounts and sources of imported shrimp in Louisiana's extremely important commercial markets. The inability of the state to measure the economic importance of imported shrimp in Louisiana poses an imminent fiscal and economic peril to the state and its citizens. It is critical for the state of Louisiana to track and monitor the importation of shrimp from other countries for health reasons. Previous and existing laws and regulations only accommodated the monitoring and tracking of shrimp harvested within the state. Imported shrimp numbers have

been increasing nationwide over the past several years. Monitoring and tracking imported shrimp will enhance the enforcement effort required to monitor harvest, and track, and to prevent the mislabeling, commingling, smuggling, false reporting and under-reporting of domestically harvested Louisiana shrimp.

Additional revenue in the form of an import tax or excise tax or other revenue-generating mechanism will be necessary in order to accomplish this end; therefore it is imperative that the Department begin immediately to implement the Act and to put in place the mechanisms for doing so.

This Declaration of Emergency will become effective on November 28, 2002, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§365. Shrimp Excise Tax

A. Shrimp Excise Tax, Shrimp Records, Shrimp Packaging

1. A shrimp excise tax shall be paid in accordance with the provisions as set forth in R.S. 56:506. Dealers shall file monthly tax reports and furnish all information required thereon on forms provided by the department. A wholesale/retail seafood dealer shall file a monthly report indicating "zero" in amount due, for each month in which such wholesale/retail seafood dealer does not import shrimp into the state and does not purchase or acquire shrimp harvested in Louisiana directly from a harvesting vessel.

2. Wholesale/retail seafood dealers, retail seafood dealers, restaurants and retail grocers shall maintain records in accordance with R.S. 56:306.5 and 56:506. In addition to the requirements therein, wholesale/retail seafood dealers when selling or otherwise transferring shrimp shall specify on each invoice of sale or transfer required to be delivered to retail dealers, restaurants and/or retail grocers the specific country of origin of the shrimp being sold or transferred. All purchase and sales records of wholesale/retail seafood dealers, which are required to be maintained by law, shall specify the country of origin of all shrimp acquired and sold or transferred. All purchase records of retail dealers, restaurants and retail grocers which are required to be maintained by law, shall specify the country of origin of shrimp acquired or purchased. Shrimp from different countries shall be recorded separately on all records.

3. All records for shrimp, which are harvested from Louisiana waters or which are landed in Louisiana from a harvesting vessel, shall indicate such shrimp are a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)."

4. It shall be a violation of this section for any wholesale/retail seafood dealer to purchase, barter, sell, exchange or possess any shrimp without paying all excise taxes owed on the shrimp as provided by law.

5. Wholesale/retail seafood dealers shall provide all information required on forms provided for the purpose of data collection relating to the shrimp excise tax.

a. Such information shall include but not be limited to:

- i. wholesale/retail seafood dealer license number;
- ii. month and year, indicating reporting month and year;
- iii. date of submission, date in which the dealer or authorized representative completes and submits shrimp excise report form;
- iv. legal name of business;

b. If purchasing or acquiring shrimp from vessels harvesting or landing in Louisiana waters, pounds of such shrimp purchased or acquired; shrimp that are landed in Louisiana by harvesting vessels are deemed to be taken in Louisiana waters.

c. If purchasing, importing, storing, brokering, or receiving shrimp domestically harvested within the United States, pounds of such shrimp purchased, imported, stored, brokered or received.

d. If purchasing, importing, storing, brokering, or receiving shrimp from a foreign country, pounds of such shrimp purchased, imported, stored, brokered or received.

e. If purchasing, importing, storing, brokering, or receiving shrimp which were taken, harvested or landed in Louisiana and excise tax has previously been paid and such shrimp are packaged, labeled and recorded to be a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)" indicate the pounds of such shrimp. No shrimp excise tax is due again on such shrimp.

f. For all shrimp reported, the shrimp excise report form shall indicate the form in which all shrimp is purchased, imported, received, brokered or stored (i.e. heads-on, headless, or peeled). Shrimp which are fully

cooked, canned cooked or breaded cooked, and frozen cooked shrimp ready for immediate consumption, shall be exempt from the requirements herein.

j. All lines, columns and blocks on the shrimp excise tax report form shall be filled out in order for the form to be deemed completed.

k. Signature of dealer or authorized representative, (first and last name) and date.

6. No wholesale/retail seafood dealer, retail seafood dealers, restaurants or retail grocers shall knowingly possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp which is represented to be a product of the United States or a product of Louisiana unless such shrimp is actually a product of the United States or a product of Louisiana.

7. No wholesale/retail seafood dealer, retail seafood dealers or restaurants shall possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp from a foreign country which is commingled with shrimp caught in the United States or which is represented to be a product of the United States.

B. Violations of the provisions of this Section shall constitute a class four violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:506.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:

James H. Jenkins, Jr.
Secretary

0211#020

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
C Minimum Number of Instructional School Days (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). R.S. 17:154.1 changed the minimum number of instructional days in the school year from 175 to 177, keeping the existing total school calendar of 182 days. The legislation switched two days generally used for professional development, planning or emergencies to instructional days. The changes in State Board of Elementary and Secondary Education policy are required as a result of enacted state legislation.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), and (15); R.S. 17:7.(5), (7), and (11); R.S. 17:10 and 11; R.S. 17:22.(2) and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended, LR 27:695 (May 2001), LR 27:815 (June 2001), LR 28:2322 (November 2002).

Minimum Session/Instructional Day

1.009.16 Each school system shall adopt a calendar for a minimum session of 182 days, of which at least 177 days shall be scheduled to provide the required instructional time.

Refer to R.S. 17:154.1

Effective with the 2001-02 school year, the length of the school year shall consist of 182 days of which no fewer than 177 days, or the equivalent, shall be used to provide instruction to students; two days shall be for staff development; the remaining days may be used for emergencies and/or other instructional activities.

If a daily schedule must be abbreviated, the schedule must be abbreviated in such a manner to ensure that all classes are taught during the partial day.

Each school system may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

General election day shall be designated by each school system as a holiday every four years for the presidential election.

1.009.18 Each instance of a school system's not meeting the minimum number of 177 days of required instructional time or the equivalent (63,720 minutes per year) shall be examined by the State Department of Education (SDE) and reported by the Department/System to the State Board of Elementary and Secondary Education (SBESE).

Operations Policies

1.010.02 Each school system shall have policies and procedures that address, but are not limited to, the following items:

- setting the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;
- providing special educational and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 177 days or the equivalent during the normal 182-day school cycle.

Length of School Day Requirements

2.037.12 The minimum instructional day for a full-day kindergarten program shall be 360 minutes.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

Refer to R.S. 17:154.1.

2.037.13 For grades K-12, the minimum school day shall include 360 minutes of instructional time, exclusive of recess, lunch, and planning periods.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

Local systems have the option to make the determination regarding the length of the school day for high school seniors/

Refer to R.S. 17:154.1.

Extended School Year Program for Eligible Exceptional Students

1.119.00 School systems shall provide eligible exceptional students special educational and related services in excess of 177 school days, or the equivalent during the normal 182 day school cycle when stated in the Individualized Education Program (IEP).

Extended School Year Program for Eligible Exceptional Students

2.119.00 Extended school year programs shall be provided to eligible exceptional students when stated in the Individualized Education Program (IEP).

2.119.01 The determination concerning the need or lack of need for an educational program beyond 177 school days, or the equivalent, during the normal 182 day school cycle made by the participants in an Individualized Education Program

(IEP) meeting shall be reviewed annually to ascertain any changes in the student's needs.

2.119.02 The Individualized Education Program shall include special educational and related services in excess of 177 school days or the equivalent during the normal 182 day school cycle when the multi-source data indicate that the student's exceptionally is of such severity that, without instruction in excess of 182 days, a significant loss of educational skills shall occur.

2.119.03 The type and length of the extended program shall be determined on an individual basis.

A program ranging from 182 up to 240 school days shall be available, when appropriate.

Weegie Peabody
Executive Director

0211#029

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 adopted an amendment to 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 proposed changes more clearly explain and refine the existing policy as follows: 1) State assessments administered to students with disabilities.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10), (11), (15); R.S. 17:7(5), (7), (11); R.S. 17:10, 11; R.S. 17:22(2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 27:694 (May 2001); LR 27:695 (May 2001); LR 27:815 (June 2001), LR 28:2323 (November 2002).

**The Louisiana School and District Accountability System
School Performance Scores**

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0".

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The Growth SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data.

During the fall of 2001 for K-8 schools, each school shall receive **two** School Performance Scores as follows:

- a Growth SPS will be calculated using 2001 English language arts/Math LEAP 21 test scores, 2001 Iowa test scores, and 2000 attendance and dropout data.
- a new Baseline SPS will be calculated using the average of the 1999-2000 and 2000-2001 English language arts/Math/Science/Social Studies LEAP 21 test scores, the average of the 1999-2000 and 2000-2001 Iowa test scores and the average of the 1999 and 2000 attendance and dropout data.

The Growth SPS shall be used to determine Growth Labels and to calculate rewards. The new Baseline shall be used to determine Performance Labels and to calculate the next cycle's Growth Target. The higher SPS (Growth or Baseline) shall be used to determine movement in Corrective Actions. (See Standard 2.006.09)

Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- an average of the most recent two year's test data, and
- attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two year's data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

During the summer of 1999 for K-8 schools, each school shall receive two School Performance Scores as follows:

- a score for regular education students, including gifted, talented, 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-6]

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example,
 $[(66.0 * 60\%) + (75.0 * 30\%) + (50.0 * 10\%)] = 67.1$

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

Criterion	
Referenced Tests (CRT) Index Calculations [K-8]	
A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School [K-8]	
1. Calculate the total number of points by multiplying the number of students at each Performance level times the points for those respective performance levels, for all content areas.	
2. Divide by the total number of students eligible to be tested times the number of content area tests.	
3. Zero shall be the lowest CRT Index score reported for accountability calculations.	

Option I students: those students failing the 8 th grade LEAP 21 that have been	
<ul style="list-style-type: none"> retained on the 8th grade campus must retake all parts of the 8th Grade LEAP 21 	
If, during spring testing, a repeating fourth grade student or Option I 8 th grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)	

Transition Years [K-8]										
To accommodate the phase-in of the Social Studies and Science components of the CRT for Elementary and Secondary Accountability Cycles, the State Department of Education shall use following LEAP Test components when calculating the School Performance Scores (SPS) for K-8:										
Timelines/ School Years			LEAP-CRT Index Components							
Cycle	Baseline SPS Data	Growth SPS Data	Grade							
			4				8			
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies
1	1998-1999	2000-2001	✓	✓			✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓

Norm-Referenced Tests (NRT) Index Calculations [K-8]	
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.	

NRT Goals and Equivalent Standard Scores					
Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *					
Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]	
Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:	
Grade 3:	Index 3 rd grade = (4.167 * SS) - 679.2 SS = (Index 3rd grade + 679.2)/4.167
Grade 5:	Index 5 th grade = (2.941 * SS) - 544.1 SS = (Index 5th grade + 544.1)/2.941
Grade 6:	Index 6 th grade = (2.500 * SS) - 477.5 SS = (Index 6th grade + 477.5)/2.500
Grade 7:	Index 7 th grade = (2.174*SS) - 428.3 SS = (Index 7th grade + 428.3)/2.174

Formula for Calculating a School's NRT Index [K-8]	
1. Calculate the index for each student, using the grade-appropriate formula relating the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.)	
2. Sum the total number of NRT Index points for all grades in the school.	
3. Divide the sum of the NRT Index points by the total number of students eligible to be tested plus the number of students not exempted.	
4. Zero shall be the lowest NRT Index score reported for School Performance Score calculations.	

Attendance Index Calculations [K-8]	
An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.	

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%
Attendance Index Formula		
Grades K-8 Indicator (ATT K-8) = (16.667 * ATT) - 1483.4		
Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.		

Lowest Attendance Index Score	
Zero shall be the lowest Attendance Index score reported for accountability calculations.	

Dropout Index Calculations	
A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two years' average dropout rates as compared to the State's goals.	

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of <i>dropout</i> shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas

Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO)
(expressed as a percentage)

Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25
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Lowest Dropout Index Score

Zero shall be the lowest Dropout Index score reported for accountability calculations.

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0-100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used.

Transition Years [9-12]

To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests, the Department shall use the following indicators:

Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03 ¹	3	3		3*	3*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	3	3	3	3*	3*
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	3	3	3	3*	3*

*Indicates use of prior year data for these indexes.
¹The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.

Transition Years [Combination Schools]

Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.

To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.

Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Formula for Calculating an SPS - Accountability Cycle 1 (2001) for 9-12 and Combination Schools.

During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is
SPS = (.60 * Grade 10 CRT Adjusted Achievement Index) + (.30 * NRT Adjusted Achievement Index) + (.05 * Dropout Index) + (.05 Attendance Index)

All intermediate results and the final result shall be rounded to the nearest tenth.

The following is an example of how this calculation shall be made:
[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.

Indicator	Index Value	Weight	Indicator Score
CRT-Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPS - Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.

During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is
SPS = (.30 * Grade 10 CRT Adjusted Achievement Index) + (.30 * Grade 11 CRT Adjusted Achievement Index) + (.30 * NRT Index) + (.05 * Dropout Index) + (.05 Attendance Index)

In this example,
[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.

Indicator	Index Value	Weight	Indicator Score
CRT-Grade 10	66.0	30%	19.8
CRT-Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Norm-Referenced Tests (NRT) Index Calculations [9-12]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.

NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	263
20-Year Goal	75 th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index } 9^{\text{th}} \text{ grade} = (2.083 * \text{SS}) - 447.8$$

$$\text{SS} = (\text{Index } 9^{\text{th}} \text{ grade} + 447.8) / 2.083$$

Option II students: those students failing the 8th grade LEAP 21 that have been:

- retained and placed on the high school campus
- must take the 9th grade NRT and
- must retake only the part of the 8th grade LEAP 21 they originally failed (English language arts or mathematics).

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-

2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- LEAP Alternate Assessment B (LAA-B) or,
- LEAP Alternate Assessment (LAA).

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 calculation 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 for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index.
4. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is:

NRT Adjusted Achievement Index = Raw Achievement Index * (1-DO Gr 9 + .07)

CRT Adjusted Achievement Index (Gr 10) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07)

CRT Adjusted Achievement Index (Gr 11) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07) * (1-DO Gr 11 + .07)

Example 1 – Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100$.
- The number of points earned on the NRT is 5000.
- The raw achievement index is $5000/45 = 111.1$.
- The adjusted achievement index is $111.1 \times (1 - .100 + .07) = 107.8$.

Example 2 – Grade 10:

- Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111$.
- The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0$.
- The adjusted achievement index is $125.0 \times (1 - .100 + .07) \times (1 - .111 + .07) = 116.3$.

Attendance Index Calculations for Grades 9-12
 An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%

Attendance Index Formula for Grades 9-12
 If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:
 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's goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

Dropout Index Formula for Grades 9-12
 Dropout Index = $187.5 - (12.5 \times \text{dropout rate})$

Example:

- If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3$.

Zero shall be the lowest Dropout Index score reported for accountability calculations.

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Data Collection and Data Verification

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. (See Standard 2.006.18 for students participating in LEAP Alternate Assessment B [LAA-B].) To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods and who has formal medical documentation for that period.

The Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data in the following respects:

- For Attendance and Dropout data:**
- The LDE shall identify a statistically valid sample of all schools included in the accountability system. All schools included in this sample shall be audited.
 - Additionally, the LDE shall audit all schools included in the accountability system that have an Irregularity or Unusual Data Result (UDR), as defined below. The LDE may have an outside team conduct the audit.
 - The findings of the audit shall be reported to the SBESE, the local district and local school. If the audit findings cannot be resolved, the Superintendent shall recommend to the SBESE, who shall approve the appropriate data to be used in the calculation of the School Performance Score.

For NRT and CRT data:

- If there is evidence of an Irregularity or UDR, the LEA shall be required to investigate using a process as determined by the LDE and approved by the SBESE. The LEA shall report the results of its investigation to the State Superintendent of Education.
- If the State Superintendent of Education determines that the results of the investigation do not sufficiently explain the data, s/he shall designate a team to visit the school and conduct its own investigation.
- If the gains are validated by the visit, the school will be designated a "pacesetter" school. If the gains cannot be validated, the State Superintendent of Education may initiate further action.

Reported Irregularities:

- The LDE will determine and the SBESE shall approve a process for the public to report possible Irregularities.
- Anonymous complaints may be investigated.
- All signed complaints shall be investigated.

Allocation of Rewards (See Standard 2.006.08):

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

An Unusual Data Result (UDR) shall be defined as any CRT, NRT, attendance or dropout data which exceeds a parameter, or a range of parameters, which shall be determined by the LDE and approved by the SBESE. An Irregularity shall be defined as any data which appears to contradict results which are otherwise expected; unrealistic information; or data generated as a result of defective data collection or processing.

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the State's 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the Growth Target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$$
 or 5 points, *whichever is greater* where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1-PropSE. PropRE is the proportion of students not in special education.

PropLEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who 1) was

not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

The maximum amount of growth that a school shall be required to attain is 20 points.

The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:

$$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * ((150 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((150 - \text{SPS})/(N+5))]$$
, or 5 points, *whichever is greater*.

For cycle 1 only (2003), the Louisiana Department of Education shall calculate a growth target for 9-12 schools using the following formula
$$.75 * [[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$$
.

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$$[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$$
, or 5 points, *whichever is greater*.

Growth Targets for New or Reconfigured Schools

Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be $(100-50)/2 = 25$. Under this rule, the school's Growth Target shall be 20, the maximum.

Growth Targets for Reconstituted Schools

Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution.

For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's Growth Target for the first cycle after reconstitution shall be 10 points $[(100-50)/5]$.

Inclusion of Alternative Education Students

2.006.17 Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the Louisiana Accountability System for the system's alternative education schools.

Option I The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

Students included in the GED/Skills Option program will be included in School Accountability. They will be required to take the 9th grade Iowa Test or participate in LEAP Alternate Assessment B (LAA-B) or LEAP Alternate Assessment (LAA) while enrolled. All programs will be considered Option I for alternative education purposes and student data will be sent back to the sending high schools for attendance, dropout and Iowa Test scores.

Option II The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- the alternative school must have its own site code and operate as a school;
- the alternative school must have a required minimum number of students in the tested grade levels; the definition of *required minimum* is stated in Section 2.006.19; and
- at least 50 percent of the total school population must have been enrolled in the school for the entire school year, October 1-May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to the SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curricula developed from Louisiana Content Standards, shall be included in the State-testing program, with those scores included in a SPS. Information on these students-e.g., number receiving a GED-shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent@schools and cannot be "paired@or "shared@with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based@district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive a SPS. Instead, the State shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1999-2000 academic school year, detention and Department of Corrections facilities shall NOT receive a SPS.

Inclusion of Students with Disabilities

2.006.18 All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT shall be included in the calculation of the SPS. Most students with disabilities shall take the CRT and the NRT with accommodations, if required by their Individualized Education Program (IEP). A small percentage of students with very significant disabilities, limited to 1.5 percent per grade level per school district, shall participate in LEAP Alternate Assessment (LAA), as required by their IEP.

Local Education Agencies (LEAs) have the option to allow or disallow LEAP Alternate Assessment B (LAA-B). The decision to allow or disallow LAA-B must be in effect for one accountability cycle. The LEA shall determine the percentage of students who can test LAA-B, not to exceed a total of 4 percent of students at any grade level per school district. This 4 percent includes those students participating in LAA. The parent must agree with LAA-B through written parental approval, via the IEP. There shall be an appeals method in place to make decisions on exceptions when the district's 4 percent cap has been exceeded.

A student participating in LAA-B testing must test three or more grade levels below in either English/Language Arts or Mathematics. If a student does not test three or more grade levels below in at least one of these subject areas, the school will receive a "0" for that student's growth in the calculation of the school's SPS.

For students with disabilities who test in LAA-B, Iowa (ITBS) standard scores from two consecutive years shall be compared in the following manner to determine student performance in calculating the SPS:

Less than 5 standard score points of progress	0 points (Unsatisfactory)
5-9 standard score points of progress	50 points (Approaching Basic)
10-14 standard score points of progress	100 points (Basic)
15-19 standard score points of progress	150 points (Proficient)
20 + standard score points of progress	200 points (Advanced)

Appeals Process for Exceeding the Established Caps for LAA or LAA-B of Students with Disabilities

School districts that either

- exceed a total of 4 percent but less than 5 percent of the total district population at any grade level participating in LAA-B and LAA, AND/OR
- exceed a total of 1.5 percent but less than 2 percent of the total district population at any grade level participating in LAA.

must submit the following to the Department of Education (DOE) for review and approval:

- 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
- increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in LAA to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

School districts that either

- exceed a total of 5 percent or more of the total district population at any grade level participating in LAA-B and LAA, AND/OR
- exceed a total of 2 percent of the total district population at any grade level participating in LAA

must submit the following to the Department of Education for review and approval:

- 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
- increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in LAA to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

The school district will receive an onsite investigation by a Department of Education team; and following the investigation, the DOE team will meet with the school district's superintendent and appropriate staff to address the findings and revise, if necessary, the submitted corrective action plan.

Weegie Peabody
Executive Director

0211#027

RULE

Board of Elementary and Secondary Education

**Bulletin 1794C State Textbook Adoption Policy and
Procedure Manual C Reasonable and Proper Care for and
Control over Textbooks and Other Materials of Instruction
(LAC 28:XXXIII.523)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended to Bulletin 1794, *State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:XXXIII. Bulletin 1794 is being revised to reflect legislative changes. Act 315 of the 2001 Regular Session of the Louisiana Legislature requires the principal of every school to transfer student educational records, within 10 business days, to educational facilities operated within correctional or health facilities, upon receipt of a written request. In addition, the authority for schools to withhold grades of students who have fines or fees related to lost or damaged books has been removed.

**Title 28
EDUCATION**

**Part XXXIII. Bulletin 1794C State Textbook Adoption
Policy and Procedure Manual**

Chapter 5. Local School System Responsibilities

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

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

A. The SDE recommends that Student Handbooks, issued to students at the beginning of each school year, include a policy statement that stipulates responsibility for proper use and control over textbooks and other materials of instruction that are on loan to the students during the school year. Signature lines should be included for both students' and parent/legal guardians' acknowledgement of responsibility. In addition, a contact name and phone number should be provided. Payment plans for restitution by parents/guardians may be specified.

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

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

D. Compensation by parents or guardians may be in the form of monetary fees or community/school service

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

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

F. Under no circumstances may a school or school district refuse the parent/guardian the right to inspect relevant grades or records pertaining to the child; nor may the school or school district refuse to transfer promptly the records of any child withdrawing or transferring from the school, per requirements of the Federal Family Educational Rights and Privacy Act. Transfer of records shall not exceed 45 days from the date of request, except for requests from any educational facility operated within any correctional or health facility. The transfer of such records shall not exceed 10 business days from the date of receipt of the written request.

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

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

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

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1001 (May 2000), LR 28:2329 (November 2002).

Weegie Peabody
Executive Director

0211#026

RULE

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

Scholarship/Grant Programs
(LAC 28:IV.301, 703, 803, 2103, and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends the Rules of the Scholarship/Grant programs (R.S. 17:3021-3026. R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

Title 28
EDUCATION

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

Chapter 3. Definitions

§301. Definitions

* * *

Full-Time StudentC

a. - f. ...

g. correspondence courses may not be used to establish full time status.

* * *

JoinCenters on active duty.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 (November 2002).

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

§703. Establishing Eligibility

A. - A.4.a. ...

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

c. ...

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

4.e. - 5.a. ...

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting a core curriculum as follows

A.5.a.ii. - 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 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655

(April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR:28.2330 (November 2002).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.4.a. ...

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

c. ...

d. if the student is eligible under the provisions of §803.A.5.d and has *joined* and is on active duty with the United States Armed Forces within one year of the date the student completed the home study program, which is deemed to be May 31, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the date the student completed the home study program, or within one year from the date of discharge, whichever is earlier; and

5. - 5.d. ...

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

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

i. 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. and documented on the student's official transcript as approved by the Louisiana Department of Education; or

ii. For students graduating in the 2000-2001 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-TECH core curriculum:

6.a.iii - 10. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), LR 27:1854 (November 2001), LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002).

Chapter 21. Miscellaneous Provisions and Exceptions

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

A. - C.3. ...

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

1. The student should complete and submit an application for an exception, with documentary evidence, to the Office as soon as possible after the occurrence of the

event or circumstance that supports the request. Through the 2000-2001 academic year, the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement. Commencing with the 2001-2002 academic year, the student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a Dependent Student, a parent or legal guardian of the Dependent Student may submit the application for exception on behalf of the applicant.

D.2. - E.11.c. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), LR 27:1866, 1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 (November 2002).

§2105. Repayment Obligation, Deferment and Cancellation

A. - C. ...

D. Procedure for Requesting a Deferment

1. The recipient should complete and submit an application for a deferment, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. The recipient must submit the application for deferment no later than three months after the date of the notice of repayment. The deadline for filing the request shall be prominently displayed on the notice of repayment. If the applicant for a deferment is a Dependent Student, a parent or legal guardian of the Dependent Student may submit the application for exception on behalf of the applicant.

D.2. - 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 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 28:2331 (November 2002).

George Badge Eldredge
General Counsel

0211#061

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV 301, 701, 703, 705, 805, 903,
1301, 1903, 2103, 2107, 2109, and 2303)

The Louisiana Student Financial Assistance Commission (LASFAC) amends its Scholarship/Grant Rules (R.S.

17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28 EDUCATION

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

Chapter 3. Definitions

§301. Definitions

A. ...

*Exceptional Child*Ca student defined as an exceptional child in accordance with R.S. 17:1943(4), excluding gifted and talented.

*Full-Time Student*C

a. - b. ...

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

d - g. ...

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2331 (November 2002).

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

§701. General Provisions

A. - E.7. ...

8. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship program during the 1997-98 award year, who lost eligibility due to their failure to maintain the required grade point average, shall be continued as TOPS Opportunity or Performance recipients, respectively, however, their eligibility for an award shall be suspended pending their satisfaction of the continuation requirements of §705.A.7 and 8. If a student satisfies the applicable requirements of §705.A.7 and 8 no later than the

end of the 2000 Spring Semester, he/she shall be eligible for reinstatement of the award in accordance with §705.B, for the semester following the satisfaction of the requirements of §705.A.7 and 8.

E.8. - 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 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999) LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995, 2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002).

§703. Establishing Eligibility

A. - A.4.b. ...

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

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

A.4.d. - D. ...

E. Students graduating in academic years 1996-97 and 1997-98 who qualified by reduction of the foreign language requirement must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year.

F. - 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 IR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR:28:2332 (November 2002).

§705. Maintaining Eligibility

A. - A.11. ...

B. Students failing to meet the requirements listed in §705.A.7 or §705.A.8.a, b, or c may have their tuition awards reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.A.8.c., but who meet

the continuation requirements of §705.A.8.a or b., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award.

C. - D. ...

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), LR 27:1853 (November 2001), LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002).

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. - A.8. ...

B. Students failing to meet the requirements listed in §805.A.7 and 8 may have their tuition awards reinstated upon achieving Steady Academic Progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), LR 27:1856 (November 2001), LR 28:774 (April 2002), LR 28:2332 (November 2002).

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. - A.4.a. ...

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §703.A.5.a.i of LAC 28:IV; and

A.4.a.ii. - A.8. ...

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 27:1220 (August 2001), repromulgated LR 27:1135 (November 2001), amended LR 28:448 (March 2002), LR 28:774 (April 2002), LR 28:2332 (November 2002).

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - B. ...

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

D. - F. ...

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

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - B.7.b. ...

8. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087 11, as amended, for the purpose of qualifying the student or his parent or guardian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - G ...

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

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 27:1864 (November 2001), LR 28:448 (March 2002), LR 28:2333 (November 2002).

Chapter 21. Miscellaneous Provisions and Exceptions

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

A. - E.1.b.ii. ...

c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters) per pregnancy.

2. - 11.a. ...

i. The following situations are not exceptional circumstances:

a.i.(a) - c. ...

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

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2333 (November 2002).

§2107. Funding and Fees

A. - C.2.a. ...

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

- i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;
- ii. students qualified as Exceptional Students/Students with disabilities;
- iii. students who graduated from out-of-state high schools; and,

iv. students who completed an Approved Home Study Program.

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

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

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

D. - E. ...

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

HISTORICAL NOTE: Promulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002).

§2109. Agency Decisions Subject to Appeal

A. Right of Appeal

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

2. - 3. ...

B. Notice of Adverse Decision

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

C. - D.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 LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1261 (June 2000), repromulgated LR 27:1870 (November 2001), amended LR 28:2333 (November 2002).

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. - A.4. ...

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least two consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.A.4 above; and

6 - 8. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), LR 28:777 (April 2002), amended LR 28:2333 (November 2002).

George Badge Eldredge
General Counsel

0211#062

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving) Program (LAC 28:VI. 101, 107, 301, 303, and 315)

The Louisiana Tuition Trust Authority (LATTA) hereby amends Rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2) period allowed under the Administrative Procedure Act.

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance
Higher Education Savings**

Chapter 1. General Provisions

§101. General Provisions

A. - A.2. ...

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

A.4. - B.2. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), amended LR 24:1267 (July 1998), LR 26:2260 (October 2000), LR 27:1876 (November 2001), LR 28:2334 (November 2002).

§107. Applicable Definitions

Earnings Enhancement Ca payment allocated to an Education Savings Account, on behalf of the Beneficiary of the account, by the state. The amount of the annual Earnings Enhancement is calculated based upon the Account Owner's classification, annual federal adjusted gross income, and total annual deposits of principal into Education Savings Accounts whether for investment in Fixed Earning or Variable Earnings. Earnings Enhancements, and the interest

earned thereon, may only be used to pay the Beneficiary's Qualified Higher Education Expenses, or portion thereof, at an Eligible Educational Institution and cannot be refunded.

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

Tuition Cthe mandatory educational charges required as a condition of enrollment.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002).

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An Education Savings Account is established on behalf of a designated Beneficiary to provide the funding necessary for the Beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. Education Savings Accounts may offer investment options that provide either Fixed Earnings or Variable Earnings.

B. - D.1. ...

2. Payment of Qualified Higher Education Expenses Cthat participation in the START Program does not guarantee that the full cost of the Beneficiary's Qualified Higher Education Expenses will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

D.3. - J. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002).

§303. Account Owner Classifications

A. - A.1. ...

2. a person determined by the authority to be a Member of the Family of the Beneficiary and, at the time of

the initiation of the agreement, the person or the Beneficiary is a resident of the state; or

A.3. - C. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27:1879 (November 2001), LR 28:779 (April 2002), LR 28:2334 (November 2002).

§315. Miscellaneous Provisions

A. - Q. ...

R. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

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), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:2335 (November 2002).

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0211#060

RULE

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

**Lead-Based Paint Activities
(LAC 33:III.2801-2811 and 2817)(AQ228)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2801-2811 and 2817 (Log #AQ228).

LAC 33:III.Chapter 28 addresses lead-based paint activities, including inspections, risk assessments, and abatements, in target housing and child-occupied facilities. This revision includes definitions, clearance levels, and other requirements to assimilate language from the federal lead-based paint activities rule amendments in 40 CFR 745, Subpart D. States with EPA-authorized programs must incorporate the federal language into their regulations by February 5, 2003, to maintain program authorization. Other revisions are being made to clarify requirements related to recognition of training providers and accreditation of individuals, relative to dialogues with other states that operate EPA-authorized programs, members of the regulated community, and EPA. The basis and rationale for this Rule are to match the federal regulations and clarify the existing requirements.

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

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

**Chapter 28. Lead-Based Paint Activities
Recognition, Accreditation, Licensure, and Standards
for Conducting Lead-Based Paint
Activities**

§2801. Scope and Applicability

A. ...

B. This Chapter applies to all persons and contractors who are engaged in lead-based paint activities in target housing and child-occupied facilities, as defined in LAC 33:III.2803, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

C. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002).

§2803. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows.

Abatement Any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

a. the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil when lead-based paint hazards are present in such paint, dust, or soil; and

b. all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

* * *

Arithmetic Mean the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

* * *

Chewable Surface Can interior or exterior surface painted with lead-based paint that a young child can mouth or chew. Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

* * *

Composite Sample Ca collection of more than one sample of the same medium (such as dust, soil, or paint) from the same type surface (such as floor, interior window sill, or window trough), such that multiple samples can be analyzed as a single sample.

Concentration the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

Deteriorated Paint any interior or exterior paint or other coating that is chalking, cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

Documented Methodologies methods or protocols used to sample for the presence of lead in paint, dust, and soil. Documented methodologies that are appropriate to use for target housing and child-occupied facilities may be found in the American Society of Testing and Materials procedures, ASTM E1727, E1728, and E1792; the U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (HUD-006700); the EPA *Guidance on Identification of Lead-Based Paint Hazards; Notice (FR 47248, Volume 60, Number 175)*; the EPA *Residential Sampling for Lead: Protocols for Dust and Soil Sampling* (EPA report number 747-R-95-001); and other EPA or HUD guidance.

Dripline the area within 3 feet surrounding the perimeter of a building.

Dry Sanding or Dry Scraping sanding or scraping without moisture and includes both hand and machine sanding. These practices are prohibited when removing lead-based paint (see LAC 33:III.2811.E.6).

Dust-Lead Hazard surface dust in a residential building or child-occupied facility, or their exteriors, that contains a mass-per-area concentration of lead equal to or exceeding 40 micrograms per square foot or 250 micrograms per square foot on window sills based on wipe samples.

Friction Surface an interior or exterior surface that is subject to abrasion or friction including, but not limited to, certain window, floor, and stair surfaces.

Impact Surface an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

Lead-Based Paint Hazard paint-lead hazards, dust-lead hazards, or soil-lead hazards as defined in this Section. For the purposes of this Chapter, *lead-based paint hazard* is equivalent to *lead hazard* as defined in R.S. 30:2351.1.

Loading the quantity of a specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

Mid-Yard an area of residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between driplines of a residential building and another building on the same property.

Paint-Lead Hazard

a. any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust-lead hazard levels identified in this Chapter;

b. any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame);

c. any chewable lead-based painted surface on which there is evidence of teeth marks; and

d. any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

Play Area—an area of frequent soil contact by children six years of age or less as indicated by, but not limited to, such factors including the following: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.

Residential Building a building containing one or more residential dwellings.

Room a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least 6 inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.

Soil-Lead Hazard bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million (micrograms per gram) in a play area or average of 1,200 parts per million of bare soil in the rest of the yard based on soil samples.

Soil Sample a sample collected in a representative location using ASTM E1727, *Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques*, or equivalent method.

Substrate the material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, brick, concrete, and metal.

Weighted Arithmetic Mean the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by

summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample and dividing the sum by the total number of subsamples contained in all samples. For example, the weighted arithmetic mean of a single surface sample containing 60 micrograms per square foot, a composite sample (three subsamples) containing 100 micrograms per square foot, and a composite sample (4 subsamples) containing 110 micrograms per square foot is 100 micrograms per square foot. This result is based on the equation $[60+(3*100)+(4*110)]/(1+3+4)$.

Wet Sanding or Wet Scraping Ca process to remove loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

Wipe Sample Ca sample collected by wiping a representative surface of known area, as determined by ASTM E1728, *Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques*, or equivalent method, with an acceptable wipe material as defined in ASTM E1792, *Standard Specification for Wipe Sampling Materials for Lead in Surface Dust*, or equivalent method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1663 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002),

§2805. Recognition and Standards for Training Providers

A. - A.1. ...

2. a training provider seeking recognition shall submit to the Office of Environmental Services, Permits Division the appropriate fees, as required in LAC 33:III.223, a completed LPF-4 form, and a completed LPF-5 form for each trainer to be recognized, containing the following information:

A.2.a. - B.2.a. ...

b. training in the lead courses they are teaching;
c. current accreditation in the disciplines in which they instruct (lead worker course instructors shall maintain supervisor accreditation); and

d. at least one year of experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene;

3. ...

4. the following items shall be recognized by the department as evidence that training managers and principal instructors have the relevant education, work experience, training requirements, accreditations, and demonstrated experience:

a. ...

b. résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements;

c. certificates from train-the-trainer courses, lead-specific training courses, and accreditations, as evidence of meeting the training requirements; and

d. principal instructors who were recognized initially based on training, education, and demonstrated work experience must provide current accreditation certificates in the appropriate disciplines by July 1, 2003, as required by Subparagraph B.2.c of this Section;

B.5. - C.2.c. ...

d. visual inspection for the purposes of identifying potential hazards associated with lead-based paint, dust-lead hazards, and soil-lead hazards;*

2.e. - 5.h. ...

D. Renewal of Training Provider's Recognition

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223, a completed LPF-4 form and a completed LPF-5 form for each trainer to be recognized to the Office of Environmental Services, Permits Division, 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.

D.2. - E.2. ...

3. the department shall be notified in writing of course location and time changes or cancellations 24 hours prior to the initial class day;

E.4 - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002).

§2807. Accreditation of Individuals

A. - A.3. ...

4. After November 30, 1998, individuals seeking accreditation in the lead inspector, risk assessor, lead project supervisor, or lead project designer disciplines must pass the applicable state examination given by the department or its proxy. Individuals must pass the state examination, with a score of 70 percent or above, within six months of receiving a course completion certificate. Individuals who fail the state exam will be allowed to take the exam again within a six-month period. Individuals who fail the state examination twice must retake the initial course before they will be allowed to retake the state examination. Anyone who fails the test three times within a six-month period may not apply for testing in that category for 90 days.

A.5. - 8.c. ...

9. Upon meeting the provisions of this Section, the applicant will be issued an accreditation certificate by the department. The issue date of the accreditation certificate shall become the annual renewal date of accreditation.

B. - B.1.c.i. ...

ii. risk assessors: successful completion of a recognized training course and state certification examination for inspectors and risk assessors, and:

(a). - (e). ...

iii. lead project supervisor: a high school diploma (or equivalent) and at least two years of experience in lead, asbestos, or environmental remediation work or in the building trades;

B.1.c.iv. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2237 (November 2002).

§2809. Licensure of Lead Contractors

A. - A.3.c. ...

4. Letters of approval shall be valid through December 31 of issuance year. In order for lead contractors to be granted renewal, they must follow the procedures of this Subsection.

A.5. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2338 (November 2002).

§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities

A. Applicability and Terms

1. All lead-based paint activities shall be performed in accordance with the work practice standards contained in this Section, except when treating paint-lead hazards of less than 2 square feet of deteriorated lead-based paint per room or equivalent, 20 square feet of deteriorated paint on the exterior of a building, or 10 percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.

2. ...

3. Hazards related to paint, dust, and soil shall be determined as follows.

a. Lead-based paint is present on any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5 percent by weight, and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

b. A paint-lead hazard shall be considered present:

i. on any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels defined in this Chapter;

ii. on any chewable lead-based paint surface on which there is evidence of teeth marks;

iii. where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame); and

iv. if there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

c. A dust-lead hazard shall be considered present:

i. in a residential dwelling or child-occupied facility when in a residential dwelling on floors and interior window sills where the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 40 micrograms per square foot for floors and 250 micrograms per square foot for interior window sills, respectively;

ii. on floors or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and

iii. on floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property.

d. A soil-lead hazard shall be considered present:

i. in a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or

ii. in the rest of the yard, when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.

4. Clearance levels that are appropriate for the purposes of this Section are listed as follows:

a. dust wipes from floors/carpets: 40 micrograms per square foot;

b. dust wipes on window sills: 250 micrograms per square foot;

c. dust wipes on window troughs: 400 micrograms per square foot;

d. dust wipes from exterior surfaces: 400 micrograms per square foot;

e. lead-contaminated bare soil and lead-contaminated covered soil in areas expected to be used by children: 400 micrograms per gram; and

f. lead-contaminated covered soil in areas where contact by children is less likely or infrequent: 1200 micrograms per gram.

A.5. - D.4. ...

5. In residential dwellings dust samples (either composite or single-surface samples) from the window and floor shall be collected and analyzed for lead concentrations in all living areas where one or more children, age six years and under, are most likely to come into contact with a dust-lead hazard.

6. - 6.a. ...

b. other common areas in the building where the risk assessor determines that one or more children, age six years and under, are likely to come into contact with a dust-lead hazard.

7. For child-occupied facilities window and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentrations in each room, hallway, or stairwell utilized by one or more children,

age six years and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six years and under, are likely to come into contact with a dust-lead hazard.

8. Soil samples shall be collected and analyzed for lead concentrations in the following locations:

a. exterior play areas and non-play areas where bare soil is present; and

D.8.b. - E.6.d. ...

7. For any exterior abatement of lead-based paint, pre-abatement composite soil samples following documented methodologies that incorporate adequate quality control procedures shall be taken by an accredited inspector or an accredited risk assessor next to the foundation or from the dripline below any exterior surface to be abated, unless this information is available from a current risk assessment. The samples shall be sent for analysis to a recognized laboratory capable of performing these analyses. When analysis results exceed 400 micrograms per gram and bare soil is present, the contractor will furnish a written copy of the analysis results to the owner/operator of the residential dwelling or child-occupied facility prior to abatement.

8. If conducted, soil abatement shall be conducted in one of the following ways:

a. if soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated. Any lead-contaminated soil that is removed shall not be used as top soil at another residential property or child-occupied facility; or

b. if soil is not removed, the lead-contaminated soil shall be permanently covered, as defined in LAC 33:III.2803.

9. - 9.f. ...

g. the accredited inspector or the accredited risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each dust sample with applicable clearance levels for lead in dust on floors, carpets, and windows. If the residual lead levels in a dust sample are equal to or exceed the clearance levels, all the components represented by the failed sample shall be re-cleaned and retested until clearance levels are met. Until all applicable clearance levels for lead in dust are met, the area shall not be cleared for reoccupancy.

E.10. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:2338 (November 2002).

§2817. Reciprocity

A. Individuals seeking accreditation from the department for a specific discipline, based upon accreditation by EPA or an EPA-approved state or Indian tribal program, shall submit copies of the following documents:

1. a valid lead-based paint activities certification (or equivalent) from EPA or an EPA-approved state or tribal program;

2. a training course certificate, issued by a training provider who, at the time the training certificate was issued,

was an EPA or EPA-approved state or tribal program authorized training provider, and all subsequent annual refresher training certificates;

3. certification of a passing score on the applicable accreditation examination, if applicable;

4. an official academic transcript or diploma that meets the educational requirements in LAC 33:III.2807; and

5. a completed application for accreditation in the specific discipline and one 1" x 1 1/4" photograph of the applicant, with the appropriate fees.

B. Exception. An individual who seeks accreditation as a lead project supervisor for the purpose of obtaining a letter of approval (LAC 33:III.2809) must take the Louisiana state examination for that discipline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2339 (November 2002).

James H. Brent, Ph.D.
Assistant Secretary

0211080

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits
(LAC 32:V.101, 317, 325, 501, 503, and 701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document. The reason for this action is to avoid disruption of healthcare services for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, OGB amends the following Rule, effective upon promulgation, except as noted below with respect to LAC 32:V.701.A.3.

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. - H. ...

I. Tricare for Life Option for Military Retirees. Retirees eligible to participate in the Tricare for Life (TFL) option on

and after October 1, 2001 who cancel coverage with the Program upon enrollment in TFL may re-enroll in the Program in the event that the TFL option is discontinued or its benefits significantly reduced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1804 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:718 (May 2001), LR 28:2339 (November 2002).

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this *plan* for:

1. - 3. ...
4. injuries sustained while in an aggressor role;
5. - 41. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustee of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 26:487 (March 2000), LR 27:717 (May 2001), LR 28:2340 (November 2002).

§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. In addition, this *plan* allows benefits, not to exceed \$200 per month, for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and copayments relating to prescription drug benefits. In connection with this benefit, the following words shall have the following meanings.

1. *Inherited Metabolic Disease*Ca disease caused by an inherited abnormality of body chemistry and shall be limited to:

- a. Phenylketonuria (PKU);
- b. Maple Syrup Urine Disease (MSUD);
- c. Methylmalonic Acidemia (MMA);
- d. Isovaleric Acidemia (IVA);
- e. Propionic Acidemia;
- f. Glutaric Acidemia;
- g. Urea Cycle Defects;
- h. Tyrosinemia.

2. *Low Protein Food Products*Ca food product that is especially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include a natural food that is naturally low in protein.

B. - C.5. ...

a. Up to a 34-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill;

b. For refills dispensed within 120 days of the most recent fill, up to a 102-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-34 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed.

ii. For a supply of 35-64 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$80 per prescription dispensed.

iii. For a supply of 69-102 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$120 per prescription dispensed.

iv. Once the out-of-pocket threshold for eligible prescription drug expenses is reached, the *plan member's* co-payment responsibility will be \$15 for a 1-34 days supply, \$30 for a 35-64 days supply, and \$45 for a 69-102 days supply, with no co-pay for up to a 102-days supply of generic drugs.

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:717, 718 (May 2001), LR 27:1886 (November 2001), LR 28:2340 (November 2002).

Chapter 5. Claims Review and Appeal

§501. Administrative Review

This Section establishes and explains the procedures for review of benefit and eligibility decisions by the program.

A. Administrative Claims Review

1. The *covered person* may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the *covered person*, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

2. The request for review must be directed to Attention: Administrative Claims Review within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager

B. Review and Appeal Prerequisite to Legal Action

1. The *covered person* must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the *program*.

C. Administrative Claims Committee

1. The CEO will appoint an Administrative Claims Committee (the Committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the Plan Document.

D. Administrative Claims Review Procedure and Decisions

1. Review by the *committee* shall be based upon a documentary record which includes:

- a. all information in the possession of the *program* relevant to the issue presented for review;
- b. all information submitted by the *covered person* in connection with the request for review; and
- c. any and all other information obtained by the Committee in the course of its review.

2. Upon completion of the review the *committee* will render its decision which will be based on the *plan* Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the *covered person* and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1818 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002), LR 28:2340 (November 2002).

§503. Appeals from Medical Necessity Determinations

The following provisions will govern appeals from adverse determinations based upon medical necessity by OGB's Utilization Review Organization (URO) pursuant to Article 3, Section IV of this document.

A. First level appeal. Within 60 days following the date of an adverse initial determination based upon medical necessity, the *covered person*, or the provider acting on behalf of the *covered person*, may request a first level appeal.

1. Each such appeal will be reviewed within the URO by a health care professional who has appropriate expertise.

2. The URO will provide written notice of its decision.

B. Second level review. Within 30-days following the date of the notice of an adverse decision on a first level appeal, a covered person may request a second level review.

1. Each such second level review will be considered by a panel within the URO that includes health care professionals who have appropriate expertise and will be evaluated by a clinical peer or peers in the same or similar specialty as would typically manage the case being reviewed.

a. The review panel will schedule and hold a review meeting, and written notice of the time and place of the review meeting will be given to the covered person at least fifteen working days in advance.

- b. The covered person may:
- i. present his/her case to the review panel;
 - ii. submit supporting material and provide testimony in person or in writing or affidavit both before and at the review meeting; and
 - iii. ask questions of any representative of the URO.

c. If face-to-face meeting is not practical the covered person and provider may communicate with the review panel by conference call or other appropriate technology.

2. The URO will provide written notice of its decision on the second level review.

C. External Review. Within 60 days after receipt of notice of a second level appeal adverse determination, the covered person whose medical care was the subject of such determination, with the concurrence of the treating health care provider, may submit request for an external review to the URO.

1. The URO will provide the documents and any information used in making the second level appeal adverse determination to its designated independent review organization.

2. The independent review organization will review all information and documents received and any other information submitted in writing by the covered person or the covered person's health care provider.

3. The independent review organization will provide notice of its recommendation to the URO, the covered person, and the covered person's health care provider.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

D. Expedited Appeals

1. An expedited appeal may be initiated by the covered person, with the consent of the treating health care professional, or the provider acting on behalf of the covered person, with regard to:

a. an adverse determination involving a situation where the time frame of the standard appeal would seriously jeopardize the life or health of a covered person or would jeopardize the covered person's ability to regain maximum function; or

b. any request concerning an admission, availability of care, continued stay, or health care service for a covered person who has received emergency services but has not been discharged from a facility.

2. In an expedited appeal the URO will make a decision and notify the covered person, or the provider acting on behalf of the covered person, as expeditiously as the covered person's medical condition requires, but in no event more than seventy-two hours after the appeal is commenced.

3. The URO will provide written confirmation of its decision concerning an expedited appeal if the initial notification is not in writing.

4. In any case where the expedited appeal does not resolve a difference of opinion between the URO and the covered person, or the provider acting on behalf of the covered person, such provider may request a second level review of the adverse determination.

E. Expedited External Review of Urgent Care Requests

1. When the covered person receives an adverse determination involving an emergency medical condition of the covered person being treated in the emergency room, during hospital observation, or as a hospital inpatient, the covered person's health care provider may request an expedited external review.

2. The URO will transmit all documents and information used in making the adverse determination to the independent review organization by telephone, telefacsimile, or other available expeditious method.

3. Within 72 hours after receiving appropriate medical information for an expedited external review, the independent review organization will notify the covered person, the URO, and the covered person's health care provider of its decision to uphold or reverse the adverse determination.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1818 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002), LR 28:2341 (November 2002).

NOTE: Form §501-513 redesignated herein as §501.A-D.

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

A. - A.1. ...

2. Member Co-Payments

	Non-EPO Provider	EPO Provider
Inpatient Hospital Services	N/A	\$100 per day up to \$300
Outpatient Services		
Physician services	N/A	\$ 15/\$25 ¹
Physical /Occupational Therapy ²	N/A	\$ 15
Speech Therapy	N/A	\$ 15
Surgery	N/A	\$ 100
MRI/CAT SCAN	N/A	\$ 50
Sonograms	N/A	\$ 25
Cardiac Rehabilitation (6-month limit)	N/A	\$ 15
Emergency Room Services (waived if admitted)	N/A	\$100

1-2 ...

Pre-Natal And Postpartum Maternity (one-time co-payment to include Physician delivery charge, all prenatal, one postpartum visit)	N/A	\$ 90
Home Health (Limit 150 visits per Plan year; requires prior approval through Case Management)	N/A	\$ 15 per visit
<ul style="list-style-type: none"> Note: Services rendered by non-EPO providers are subject to deductible. 		

3. Percentage Payable after Co-payments and Satisfaction of Applicable Deductibles

Eligible expenses incurred at an EPO	N/A	100%
Eligible expenses incurred at a non-EPO	70%	N/A
Eligible expenses incurred when Medicare or other Group Health Plan is primary, and after Medicare reduction	80%	N/A
Eligible expenses in excess of \$10,000* per person per Calendar Year	100%	N/A
*Coinsurance threshold increase from \$5,000 to \$10,000 effective January 1, 2003		
<ul style="list-style-type: none"> Eligible expenses at EPO are based upon contracted rates. 		

<ul style="list-style-type: none"> Eligible expenses at non-PPO are based upon the OGB's fee schedule. Charges in excess of the fee schedule are not eligible expenses and do not apply to the coinsurance threshold.
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A.4. - C.2. ...

3. Well Adult (no deductible; limited to a maximum benefit of \$200)

Age 16 to 39 C1 physical every 3 years	70% of maximum	No co-pay
Age 40 to 49 C1 physical every 2 years	70% of maximum	No co-pay
Age 50 and over C1 physical every year	70% of maximum	No co-pay

D. - E. ...

F. - G. Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), LR 27:1887 (November 2001), LR 28:2342 (November 2002).

A. Kip Wall
Chief Executive Officer

0211#034

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

EPO Plan of Benefits C Stop Loss Threshold, Non-EPO Provider Services (LAC 32:V.323 and 701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to the stop loss threshold applicable to services rendered to EPO plan participants by non-EPO providers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB 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, OGB hereby amends the following Rule to become effective January 1, 2003.

**Title 32
EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits
Chapter 3. Medical Benefits**

§323. Preferred Provider Program
Repealed.

NOTE: In light of revisions to the EPO Schedule of Benefits (LAC 32:V.701) by Rule published November 2002, this Section 323 is superseded and repealed by implication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1815 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2343 (November 2002).

**Chapter 7. Schedule of Benefits—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.

	Non-EPO	EPO
Lifetime Maximum for all benefits except outpatient prescription drug benefits per person	\$2,000,000	
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person	\$250,000	

1. ...
2. Percentage Payable after Satisfaction of Applicable Deductibles

	Non-EPO	EPO
Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO hospitals)	\$50	0
Emergency room charges for each visit unless the <i>covered person</i> is hospitalized immediately following emergency room treatment (prior to and in addition to <i>plan year deductible</i>)	\$150	0
Professional and other eligible expenses, employees and dependents of employees, per person, per plan year Family unit maximum (3 individual deductibles)		
Professional and other eligible expenses, retirees and dependents of retirees, per person, per plan year Family unit maximum (3 individual deductibles)		
Professional and other eligible expenses, other than physician office visits, per person, per plan year Family unit maximum (3 individual deductibles)	\$300	0

A.3. - E. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001), amended by the Office of the Governor, Division of Administration, Office of

Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2343 (November 2002).

A. Kip Wall
Chief Executive Officer

0211#032

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO Plan of Benefits
(LAC 32:III.101, 317, 323, 501, 503, and 701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document. The reason for this action is to avoid disruption of healthcare services for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, OGB hereby amends the following Rule, effective upon promulgation.

**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. - H. ...

I. Tricare for Life Option for Military Retirees. Retirees eligible to participate in the Tricare for Life (TFL) option on and after October 1, 2001 who cancel coverage with the Program upon enrollment in TFL may re-enroll in the Program in the event that the TFL option is discontinued or its benefits significantly reduced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1825 (October 1999), LR 27:721 (May 2001), LR 28:2343 (November 2002).

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this plan for:

1. - 3. ...
4. Injuries sustained while in an aggressor role;
5. - 39. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1834 (October 1999), LR 26:488 (March 2000), LR 27:720 (May 2001), LR 28:2343 (November 2002).

§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. In addition, this plan allows benefits, not to exceed \$200 per month, for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and copayments relating to prescription drug benefits. In connection with this benefit, the following words shall have the following meanings.

1. *Inherited Metabolic Disease*Ca disease caused by an inherited abnormality of body chemistry and shall be limited to:

- a. Phenylketonuria (PKU);
- b. Maple Syrup Urine Disease (MSUD);
- c. Methylmalonic Acidemia (MMA);
- d. Isovaleric Acidemia (IVA);
- e. Propionic Acidemia;
- f. Glutaric Acidemia;
- g. Urea Cycle Defects;
- h. Tyrosinemia.

2. *Low Protein Food Products*Ca food product that is especially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include a natural food that is naturally low in protein.

B. - C.5. ...

a. Up to a 34-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 102-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-34 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed.

ii. For a supply of 35-64 days the *plan member* will be responsible for payment of fifty percent of the cost of the drug, up to a maximum of \$80 per prescription dispensed.

iii. For a supply of 69-102 days the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$120 per prescription dispensed.

iv. Once the out-of-pocket threshold for digible prescription drug expenses is reached, the *plan member's* co-payment responsibility will be \$15 for a 1-34 days supply,

\$30 for a 35-64 days supply, and \$45 for a 69-102 days supply, with no co-pay for up to a 102-days supply of generic drugs.

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1835 (October 1999), LR 27:720, 721 (May 2001), LR 27:1887 (November 2001), LR 28:2344 (November 2002).

Chapter 5. Claims Review and Appeal

§ 501. Administrative Review

This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

A. Administrative Claims Review

1. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the *covered person*, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

2. The request for review must be directed to Attention: Administrative Claims Review within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager.

B. Review and Appeal Prerequisite to Legal Action

1. The *covered person* must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the *program*.

C. Administrative Claims Committee

1. The CEO will appoint an Administrative Claims Committee (the Committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the *plan document*.

D. Administrative Claims Review Procedure and Decisions

1. Review by the *committee* shall be based upon a documentary record which includes:

- a. all information in the possession of the *program* relevant to the issue presented for review;
- b. all information submitted by the *covered person* in connection with the request for review; and
- c. any and all other information obtained by the *committee* in the course of its review.

2. Upon completion of the review the *committee* will render its decision which will be based on the *plan document* and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the *covered person* and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1838 (October 1999), LR 28:479 (March 2002), LR 28:2344 (November 2002).

NOTE: Former §§501-513 redesignated herein as §501.A-D.

§ 503. Appeals from Medical Necessity Determinations

The following provisions will govern appeals from adverse determinations based upon medical necessity by

OGB's Utilization Review Organization (URO) pursuant to Article 3, Section IV of this document.

A. First Level Appeal. Within 60 days following the date of an adverse initial determination based upon medical necessity, the covered person, or the provider acting on behalf of the covered person, may request a first level appeal.

1. Each such appeal will be reviewed within the URO by a health care professional who has appropriate expertise.

2. The URO will provide written notice of its decision.

B. Second Level Review. Within 30 days following the date of the notice of an adverse decision on a first level appeal, a covered person may request a second level review.

1. Each such second level review will be considered by a panel within the URO that includes health care professionals who have appropriate expertise and will be evaluated by a clinical peer or peers in the same or similar specialty as would typically manage the case being reviewed.

a. The review panel will schedule and hold a review meeting, and written notice of the time and place of the review meeting will be given to the *covered person* at least 15 working days in advance.

b. The *covered person* may:

i. present his/her case to the review panel;

ii. submit supporting material and provide testimony in person or in writing or affidavit both before and at the review meeting; and

iii. ask questions of any representative of the URO.

c. If face-to-face meeting is not practical the covered person and provider may communicate with the review panel by conference call or other appropriate technology.

2. The URO will provide written notice of its decision on the second level review.

C. External Review. Within 60 days after receipt of notice of a second level appeal adverse determination, the covered person whose medical care was the subject of such determination, with the concurrence of the treating health care provider, may submit request for an external review to the URO.

1. The URO will provide the documents and any information used in making the second level appeal adverse determination to its designated independent review organization.

2. The independent review organization will review all information and documents received and any other information submitted in writing by the covered person or the covered person's health care provider.

3. The independent review organization will provide notice of its recommendation to the URO, the covered person, and the covered person's health care provider.

4. An external review decision will be ... on the URO, on OGB and on the covered regarding the medical necessity determination.

D. Expedited Appeals

1. An expedited appeal may be initiated by the covered person, with the consent of the treating health care

professional, or the provider acting on behalf of the covered person, with regard to:

a. an adverse determination involving a situation where the time frame of the standard appeal would seriously jeopardize the life or health of a covered person or would jeopardize the covered person's ability to regain maximum function; or

b. any request concerning an admission, availability of care, continued stay, or health care service for a covered person who has received emergency services but has not been discharged from a facility.

2. In an expedited appeal the URO will make a decision and notify the *covered person*, or the provider acting on behalf of the covered person, as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the appeal is commenced.

3. The URO will provide written confirmation of its decision concerning an expedited appeal if the initial notification is not in writing.

4. In any case where the expedited appeal does not resolve a difference of opinion between the URO and the covered person, or the provider acting on behalf of the covered person, such provider may request a second level review of the adverse determination.

E. Expedited External Review of Urgent Care Requests

1. When the *covered person* receives an adverse determination involving an emergency medical condition of the covered person being treated in the emergency room, during hospital observation, or as a hospital inpatient, the covered person's health care provider may request an expedited external review.

2. The URO will transmit all documents and information used in making the adverse determination to the independent review organization by telephone, telefacsimile, or other available expeditious method.

3. Within 72 hours after receiving appropriate medical information for an expedited external review, the independent review organization will notify the covered person, the URO, and the covered person's health care provider of its decision to uphold or reverse the adverse determination.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1838 (October 1999), LR 28:479 (March 2002), LR 28:2344 (November 2002).

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. - A.1. ...

2. Percentage Payable after Satisfaction of Applicable Deductibles

Eligible expenses incurred at a PPO	90%
Eligible expenses incurred at a non PPO when Plan Member resides outside of Louisiana	90%

Eligible expenses incurred at a non-PPO when Plan Member resides in Louisiana	70%
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%
<ul style="list-style-type: none"> Eligible expenses at PPO are based upon contracted rates. PPO discounts are not eligible expenses and do not apply to the \$10,000 threshold. 	
<ul style="list-style-type: none"> Eligible expenses at non-PPO are based upon the OGB's fee schedule. Charges in excess of the fee schedule are not eligible expenses and do not apply to the \$10,000 threshold. 	

3. Reserved

4. ...

B. - C.3. ...

²PPO in-state and non-Louisiana residents C100 percent of eligible expenses up to the maximum benefit;
Non-PPO in-state C70 percent of eligible expenses up to 70 percent of the maximum benefit

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), LR 27:1887 (November 2001), LR 28:2345 (November 2002).

A. Kip Wall
Chief Executive Officer

0211#033

RULE

Office of the Governor Division of Administration Office of Statewide Reporting Accounting Policy

Collection Policy and Procedure (LAC 4:XIII.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and Act 904 of Regular Session 2001, the Division of Administration hereby adopts a collection policy and procedure for use by state agencies.

Title 4

ADMINISTRATION

Part XIII. Statewide Reporting Accounting Policy

Chapter 1. Collection Policy and Procedure

§101. Introduction

A. Overview

1. The following policies and procedures are presented in a broad format to be used by state agencies/departments within the Executive branch of government, including colleges and universities, to create their own detailed, agency-specific procedures, subject to approval by the Cash Management Review Board.

2. Implementation of these policies and procedures are mandated by Act 904 of Regular Session 2001 which enacts Subpart E of Part II of Chapter I of Title 39 of the Louisiana Revised Statutes, to be comprised of R.S. 39:88.1 through 39:88.4, and cited as the "Louisiana Collection and Procedure Act." Its purpose is to provide a comprehensive collection policy and procedure for collection of obligations due to the state be established for use by all state agencies.

3. Act 904 of Regular Session 2001 states: "The Commissioner of Administration shall prescribe and cause to be implemented a comprehensive collection policy and procedure to be used in all state agencies. ... The policy and procedures manual shall include rules and regulations to assist state agencies in the identification and collection of delinquent accounts. ... Each state agency shall comply with the provisions of collection policy and procedure manual and is authorized to establish and maintain internal controls not inconsistent with the provisions included in the manual. The Cash Management Review Board shall oversee the development of and implementation of the collection policies and procedures manual in each state agency and is authorized to adopt rules and regulations in furtherance of this responsibility."

B. Purpose

1. To establish guidelines for accounts that are considered to be uncollectible.

2. To establish authoritative approval process for uncollectible accounts to be written off for financial reporting purposes only.

3. To establish guidelines for agencies/departments to use for implementation of internal control policy and procedure of accounts receivable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2346 (November 2002).

§103. Accounts Receivable Process Overview and Objectives

A. Billing Process Overview and Objectives

1. To provide accurate and timely billing for amounts owed to the state.

2. To provide a means of tracking accounts receivable.

3. To provide billing capabilities for various types of receivables.

4. To provide the capabilities of monitoring the aging of accounts receivable, creating customer billings and statements based on the age of the receivable.

5. To provide internal control procedures and accountability.

6. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 13.4 and 13.5, Accounts Receivable Recognition Overview and Recording Revenue Recognition Overview.

B. Billing Event Overview and Objective

1. Recording of the billing event will be performed by the agency/department. Agency/department will initiate the data entry, obtain approvals and process the billing.

2. Invoices and statements are printed at the agency/department location and sent to the customer on a timely basis. Agency/department shall provide statements at least monthly.

3. Once a receivable has been incurred, an invoice should be prepared and sent to debtor on a timely basis.

4. Agency/department are responsible to track their own receivables. Keep records of and all correspondences pertaining to the account.

5. The agency/department will obtain complete and accurate information on each debtor in the event of default.

6. Each month a report is prepared to review the accounts for further action. The agency/department shall provide a report relating to accounts that are over 30 days, 60 days, 90 days, and older.

7. Agency/department shall inform and notify the debtor of additional fees, charges, and cost that may be incurred for failure to pay a debt:

- a. fee that will be charged for NSF checks;
- b. interest on unpaid balance per month;
- c. attorney or collection agency fees;
- d. late penalty fees.

8. Agency/department whose collections are based on taxpayers' records, and therefore do not issue invoices, are not subject to Items 1, 2, and 3 above.

C. Billing Receipts Overview and Objective

1. Agency/department receives the money. Credit the appropriate customer's account.

2. Compliance with R.S. 39:372 and the Louisiana Constitution Article VII, Section 9 (A) requires "all monies received by the State or by any state board, agency, or commission shall be deposited immediately upon receipt in the State Treasury, except for certain listed therein." ("Immediately" is defined as within 24 hours of receipt. The State Treasury cash management practices require state-depositing entities to deposit receipts in the State's central depository account or designated regional depository accounts. The depositing agency is responsible for revenue classification in the accounting system.)

3. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 6, Cash Receipts.

D. Accounting Procedures Overview and Objective

1. Agency/department should maintain a proper segregation of duties such as opening the mail, recording the receipt, and maintaining the accounts receivable records. If not feasible, implement supervisory review and controls.

2. A monthly Aged Trial Balance of all accounts should be checked and verified that the amount equals the balance in the General Ledger, if applicable.

3. Obtain all necessary information on the debtor in the event of default such as:

- a. current home and work address and phone number;
- b. social security and/or federal employer identification number;
- c. name of address of nearest relative or guardian;
- d. date of birth;
- e. credit references;
- f. any other relevant information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2346 (November 2002).

§105. Collection Process Overview, Objective, and Policy Guidelines

A. The following procedures are very general and broad for the purposes of identifying area of concerns and general concentration.

1. Collection Process Objectives

a. To establish and implement a collection policy and procedure that the Cash Management Review Board has approved.

b. To identify delinquent accounts.

c. To pursue delinquent accounts by creating collection letters that are tailored to the agency/department's need.

d. To apply late charges and interest to delinquent accounts.

e. To interface with other software to enhance the intercepting of payments.

f. To provide an updated customer account balance for any collection activity:

i. payments or NSF checks.

g. To provide the ability to write off uncollectible accounts with proper authority and documentation. Debt is still owed to the state.

h. To establish and maintain Internal Controls.

2. Collection Process

a. Begins when the debt is recognized or the service is completed. The agency/department shall provide an invoice or statement in a timely manner to the debtor.

b. Different messages would appear on the statement according to the status of the account to remind the customer of the amount owed to the state, any payments and/or adjustments made since the last printed statement.

c. Apply interest and/or late charges as statutorily prescribed.

d. With the proper documentation and approval, write off from the financial statements any account that is deemed uncollectible after following the procedures outlined in §107.B. The debt is still owed to the state.

3. Collection Follow-Up Procedures

a. Policies and procedures are established and implemented at the agency/department that were approved by the Cash Management Review Board.

b. Send a minimum of one follow-up billing statement to debtor. The scheduled billing cycle shall be designated by agency/department.

c. Send second billing statement to debtor with a warning (dunning) message explaining the action that will be taken within a scheduled billing cycle from the first statement.

d. Third billing statement notifies the debtor that the account has been forwarded to a collection agency or attorney general's office within a scheduled billing cycle from the second statement.

e. Course of Action after the Third Billing Statement

i. Discontinue service and notify debtor by letter that service has been discontinued, if applicable to the agency/department.

ii. The agency/department will continue to collect amounts by all available means. Private collection agency, debt offset, etc.

f. Further Action (Discretion of agency/department policies and procedures approved by Cash Management Review Board)

i. Agency/department's secretary or undersecretary may approve the account to be written off or continue to collect (agency's discretion).

ii. Agency/department may continue its collection process or assign the account to a collection agency.

iii. Follow-up with the Attorney General's office or collection agency on the status of the account.

g. If appropriate, contact past due customers by telephone at any time during the collection process to ensure collection.

4. Allowance for Doubtful Accounts

a. Each agency/department should establish an allowance for doubtful accounts to ensure that the agency/department's receivables are not overstated for financial reporting purposes.

b. The allowance method used shall be established by the agency/department with the Cash Management Review Board approval. However, the amount should be based upon historical data or other pertinent information relative to the receivable. Sound accounting theory must be used at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2347 (November 2002).

§107. Write-Off of Uncollectible Accounts Process Overview, Objective, and Policy Guidelines

A. Write-Off Objectives

1. To establish and implement a collection policy and procedure that the Cash Management Review Board has approved.

2. An authorization to write-off an account does not constitute a forgiveness of indebtedness.

3. Debtor remains obligated to the state.

4. Write-off authorizes a state agency to:

a. transfer an account to a dormant file;

b. discontinue incurring the expense involved in collecting the account;

c. discontinue reporting the amount as a receivable on the General Ledger.

5. To encourage proper write-offs on a fiscal year end basis.

6. The agencies/departments will have the ability to write-off an account from their financial statements when it is evident that it is uncollectible.

7. To establish and authorize the board and/or committee within each state agency/department to recommend any write offs when the accounts are deemed uncollectible.

a. The board and/or committee shall be managerial level personnel within the appropriate department.

8. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 13CAccounts Receivable.

B. Write-Off Process

1. Agency/department must request an account to be written off through their respective board/committee.

2. Amounts over a specific designation require additional approval from the agency/department's secretary or undersecretary as recommended by the committee.

3. The request to write off a receivable by the agency/department must include the following information:

a. the name and address of the debtor;

b. the age of the account;

c. the nature of the amounts owed;

d. the collection efforts that have been made;

e. any other pertinent information to give a full understanding of the request such as debtor's employment status, debtor financial status, debtor's accessibility, etc.

4. Approved write-off must be reported on the Quarterly Accounts Receivable Report and retained in a dormant file and removed from current records.

5. For payments received on an account written-off, record the amount received as revenue, do not re-establish the receivable.

C. Write-Off Criteria

1. The amount is deemed uncollectibleCage of the account.

2. The write-off will not prejudice the position of the state.

3. All reasonable collection efforts have been exhaustedCprivate collection agency, Attorney General's office and/or state's debt offset process.

4. The debtor cannot be located or a discharge of bankruptcy has occurred.

5. The applicable statute of limitations for collection of debt has expired.

6. The debtor is deceased and there is no estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2348 (November 2002).

§109. Debt Intercept or Offset Process Overview, Objective, and Policy Guidelines

A. Warrant Intercept

1. Vendor/debtor is receiving a payment from the state, a request is made by a state agency to intercept the payment for a past due amount, the system automatically applies the payment to the past due amount, and the difference is sent to the vendor.

2. State legislation will be required to enforce this type of intercept.

B. Revenue Recapture

1. Past due amounts can be recaptured through tax refund.

2. Other means of recapture are lottery or gaming winnings.

3. Both recapture programs are administered through the Department of Revenue.

C. Offsets

1. Current offset allowed by R.S. 47:299.2 against income tax refunds are specifically used by:

a. Department of Justice Collections Section;

b. Louisiana Student Financial Assistance Commission's Student Loan Collection Section;

c. Division of Support Enforcement of the Office of Family Support in the Department of Social Services and any other office or facility of DSS;

d. Department of Health and Hospitals;

e. Department of Public Safety and Corrections;

f. Department of Labor.

2. Offset program could be greatly expanded to include other state agencies/departments and all tax refunds, not just income taxes, unemployment benefits, or any other payments made by the state.

3. Additional legislation will be required to expand the offset program.

D. Garnishments, Liens, and Judgments

1. When such measures are deemed cost effective.

2. Used by most state agencies/departments through private collection firms or Attorney General's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2348 (November 2002).

§111. Quarterly Reporting of Accounts Receivable Overview and Policy Guidelines

A. Objectives

1. To establish a report that shows each state agency/department's accounts receivable balances and activities during the quarter as mandated by R.S 39:79.
2. To establish guidelines and procedures for the quarterly reporting as stated by Memorandum SA 96-45.
3. To ensure the quarterly reports are consistent and as accurate as possible.
4. To have uniformity of reporting for all state agencies/departments.
5. To ensure the timely reporting of the quarterly report as stated by Memorandum SA 96-45.

B. Procedures for Quarterly Reporting

1. Quarterly Activity (Form AR-1)
 - a. Gross Receivables and Debt at End of Quarter
 - b. Estimated Uncollectible for the Quarter
 - c. Net Receivable for the Quarter
 - d. Write-Offs for the Quarter
2. Aging of Receivables (Form AR-12)
 - a. Current Receivables-do not include those past due
 - b. Past Due Receivables: 1-30 days
 - c. Past Due Receivables: 31-90 days
 - d. Past Due Receivables: 181 days-1 year
 - e. Past Due Receivables: over one year
 - f. Total Receivables Past Due
 - g. Total Gross Receivable
 - h. Total gross receivables must equal gross receivables and debt at end of quarter reported on form AR-1.
3. Collections Activity for Receivables over 180 days (Form AR-3)
 - a. Amount over 180 Days Past Due
 - b. Collections within the Agency
 - c. Collections with Attorney General's Office
 - d. Collections with Private Collection Firm
 - e. Collections--Other (specify the type)
 - f. Collections--Under Protest
 - g. Amount over 180 days past due must equal 181 days-1 year and over 1 year total amount reported on form AR-2
4. Write-Off Disclosure (Form AR-4)
 - a. Number of Accounts Cif applicable
 - b. Amount of the Write-Offs
 - c. Reason for the Write-Off
 - d. The total write-off must equal write-off disclosure reported on Form AR-1.
5. Annual Comparison of Receivables (Form AR-5)
 - a. Major Revenue Source
 - b. Amount Past Due--Prior Year Ending Balance
 - c. Amount Past Due--Current Year Ending Balance
 - d. Increase/Decrease
 - e. Percentage of Change
 - f. Explanation given for each comparison variance on the bottom of the page designated as "Explanation" for each category.

C. Accounts Receivable Quarterly Reports

1. Quarterly reports starting with September 30, 2000 is available on OSRAP website: <http://www.state.la.us/osrap/index.htm>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2349 (November 2002).

F. Howard Karlton
Director

0211#030

RULE

**Office of the Governor
Office of Financial Institutions**

**Capital Companies Tax Credit Program
(LAC 10:XV.323)**

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 51:1929(5) of the Louisiana Capital Companies Tax Credit Program, R.S. 51:1921 et seq., the Commissioner of Financial Institutions adopts the following new Rule to provide for the levy of fees and assessments upon certified Louisiana capital companies.

Title 10

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

Part XV. Other Regulated Entities

**Chapter 3. Capital Companies Tax Credit Program
§323. Fees and Assessments**

A. Pursuant to the authority granted under R.S. 51:1929(5), the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the certified Louisiana Capital Companies Tax Credit Program, R.S. 51:1921 et seq.

1. Request for certification of capital pursuant to R.S. 51:1924. Each certified Louisiana capital company seeking an allocation of certified capital shall submit a non-refundable fee with the request for allocation filed on October 1 and December 1 of each year.

Requested Amount	Fee
Less than \$250,000	\$1,000
\$250,000 < \$3,000,000	\$2,500
\$3,000,000 or greater	\$5,000

2. Annual assessment of each certified Louisiana capital company at a floating rate to be assessed no later than May 15 of each year, to be based on the total certified capital under management, as defined in LAC 10:XV.303, as of the previous December 31 audited financial statements. Any amounts collected in excess of actual expenditures related to the administration of the certified Louisiana capital companies program by the Office of Financial Institutions shall be credited or refunded on a pro rata basis. Any shortages in assessments to cover actual operating expenses of OFI relating to the administration of the certified

Louisiana capital companies program shall be added to the next variable assessment or billed on a pro rata basis.

Fee	Variable
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3. Late Fee. For each calendar day that an assessment is late pursuant to the requirements of Section 323.B.2, a late fee shall be assessed.

Fee	\$100 per day
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B. Administration

1. The failure to submit a fee with the request for allocation as required in Section 323.A.1 shall result in the denial of an allocation of certified capital.

2. The assessment described in Section 323.A.2 shall be considered late if not received by this office on or before May 31 of each calendar year. If this office receives an assessment after May 31, it shall not be deemed late if it was postmarked on or before May 31.

3. If audited financial statements are not submitted to this office by April 30, unaudited financial statements shall be submitted no later than May 1. These unaudited financial statements shall then be used to determine the assessment amount provided for in Section 323.A.2. Accompanying these audited or unaudited financial statements shall be a detailed calculation of total certified capital under management as of December 31.

4. If neither an audited nor unaudited financial statement has been received by this office by May 1, beginning on June 1, the late fee described in Section 323.A.3 shall be assessed until the assessment has been paid.

5. If any of the dates described in parts 2 and 3 above, except the April 30 and the December 31 due date for audited financial statements, occurs on an official state holiday or a Saturday or a Sunday, the next business day for the Office of Financial Institutions shall be the applicable due date.

6. The assessment for each certified Louisiana capital company group, as defined in R.S. 51:1923(11), and described in §323.A.2 shall be based on the following formula.

a. The numerator will be the total certified capital under management for the group as of the previous December 31.

b. The denominator will be the total certified capital under management for all certified Louisiana capital companies as of the previous December 31.

C. Severability

1. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, items, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions LR 28:2349 (November 2002).

John D. Travis
Commissioner

0211#070

RULE

**Office of the Governor
Division of Administration
Office of Telecommunications Management**

**Telecommunications Building Access Standards
(LAC 4:IX.707)**

In accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Telecommunications Management hereby amends LAC Title 4, Part IX. Chapter 7, by adding Section 707. Telecommunications Building Access Standards. In accordance with Act 1183 of 1999, the Office of the Governor, Division of Administration, Office of Telecommunications Management has given written consideration to the Rule's impact on family. The Rule should have no impact on any family as defined in R.S. 49:972.D or on family formation, stability, and autonomy. In accordance with R.S. 49:972.C, the written family impact statement will be kept on file in the Office of Telecommunications Management.

Title 4

ADMINISTRATION

Part IX. Telecommunications

**Chapter 7. Telecommunications Service Standards
§707. Telecommunications Building Access Standards**

A. In general, telecommunications access to state-owned buildings shall be made through an as-needed competitive procurement activity that includes provisions and requirements for building access as a part of the state's needs to acquire telecommunications services. This Section is not applicable to those telecommunications service providers that have existing access facilities in state-owned buildings. In special cases where a telecommunications service provider is building out its network and desires access to a new or existing state-owned building in that process, this Section shall apply.

B. When determined by the Office of Telecommunications Management and with the concurrence of the agency/owner to be in the best interest of the state, building access and space in state-owned buildings may be made available to telecommunications service providers. It is the state's intention to provide access to the building through a state-owned and state-provided conduit system.

C. The Office of Telecommunications Management shall be responsible for developing a standard building access agreement. The Office of Telecommunications Management shall be responsible for developing installation standards and guidelines for use by telecommunications service providers. The Office of Telecommunications Management shall coordinate the processing of all requests by telecommunications service providers for building access. The telecommunications service provider shall be responsible for initiating a written request for building access to the Office of Telecommunications Management that contains specific details of accommodation requirements and types of services offered. The

agency/owner shall be responsible for sending all requests from telecommunications service providers to the Office of Telecommunications Management. Each building access agreement shall be signed by the agency/owner and the telecommunications service provider and approved by the Office of Telecommunications Management.

D. The criteria for accommodation shall be first come/first served, reasonable availability of space, a demonstrated need for the type of service to be provided, and safety considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140-141, 143, R.S. 39:1751-1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 28:2350 (November 2002).

Joseph A. Lanier
Director

0211#076

RULE

Office of the Governor Used Motor Vehicle and Parts Commission

Change in Time of Board Meeting; Public Comments
at Board Meetings; and Educational Seminars
(LAC 46:V.2701, 4401, and 4403)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission has adopted rules and regulations governing public comments at Board Meetings in accordance with R.S. 47:5.D and educational seminars in accordance with R.S. 32:774.B.(3)(b)(i)-(iv). The Used Motor Vehicle Parts Commission has amended the time of the regularly scheduled Board Meetings as indicated in R.S. 32:772.E.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 27. The Used Motor Vehicle and Parts Commission

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 9 a.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42.5.

B. ...

C. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman no later than 48 hours prior to the date of the regular meeting and 72 hours prior to the date of a special meeting. All written requests to have an item or items placed on the agenda must indicate, in detail, what items they wish to discuss. Public

discussions are limited only to items on the agenda. There will be a maximum of 30 minutes for all public comments to be heard and each person will be limited to three minutes. Additional time can be allowed by the chairman as he deems reasonable. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002).

Chapter 44. Educational Seminar

§4401. Required Attendance

A. On and after January 1, 2002, every applicant for a used motor vehicle dealer's license that has not been licensed prior to January 1, 2003, must attend a four-hour educational seminar approved and conducted by the Used Motor Vehicle and Parts Commission. Existing dealers will be grandfathered in and not mandatorily required to attend said seminar.

1. The seminar will be conducted by employees of the Used Motor Vehicle and Parts Commission and will be held at the office of the commission located at 3132 Valley Creek Drive, Baton Rouge, Louisiana, 70808.

2. The seminar will be held once a month on the first Monday of each month beginning at 9 a.m. and ending at 1 p.m.

3. As a courtesy to existing dealers, educational seminars will be conducted throughout the state once a year.

4. In addition to new dealers being required to attend the four hour seminar, any existing dealers who are found guilty of violations of commission laws and/or rules and regulations will be required to attend.

5. There will be no charge for attendance to the educational seminar.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002).

§4403. Certification

A. Upon applying for a 2003 used motor vehicle dealer's license, the applicant must attach a copy of the certificate of completion which documents that the dealership's general manager, office manager, title clerk or other responsible representative of the dealership has attended the four-hour educational seminar. If the applicant has not completed the educational seminar, he must provide evidence that he has registered to attend such seminar within 60 days after issuance of the license.

B. The certificate shall list the participant's name and title, name and address of the used motor vehicle dealer, date of completion and signature of instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002).

§4403. Educational Program

A. The educational seminar will consist of information pertaining to the Used Motor Vehicle and Parts Commission, Department of Revenue and Taxation, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LUMVPCCbackground of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, hearing procedures and non-delivery of titles;
2. LMVCCfinance licenses;
3. RevenueCsubmission of monthly sales reports and collection of taxes;
4. Office of Motor VehiclesCnon-delivery of titles, certificates of title and completion of titles by dealers;
5. Wildlife and FisheriesCregistration of marine products;
6. Office of Attorney GeneralCcivil and criminal matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002).

John M. Torrance
Executive Director

0211#056

RULE

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

Dispensing of Medications
(LAC 46:XLV.6507 and 6513)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, the Louisiana State Board of Medical Examiners has amended its existing medication dispensing rules governing the effect of providing false or misleading information on an application and the eligibility requirements prerequisite to registration as a dispensing physician. The rule are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Profession
Subpart 3. Practice**

Chapter 65. Dispensation of Medications

Subchapter B. Prohibitions and Sanctions

§6507. Action Against Medical License

A. Violation of the prohibitions set forth in §6505, or providing false or misleading statements in connection with any application required by this Subchapter, shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in

the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285.A.(3), R.S.37:1285.A.(4), R.S. 37:1285.A.(6), and R.S. 1285.A.(30), respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1248 (July 1999), LR 28:2352 (November 2002).

Subchapter C. Registration

**§6513. Eligibility for Registration as a Dispensing
Physician**

A. To be eligible for registration as a dispensing physician, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;
2. have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree;
3. not currently be enrolled in a medical residency or other post graduate medical training program; and
4. possess a current, unrestricted license to prescribe, dispense, and administer controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Human Resources, state of Louisiana, and be currently registered to prescribe, dispense, and administer controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice.

B. - B.6. ...

7. has been denied, had suspended, revoked, restricted, or relinquished, staff or clinical privileges at any hospital or other health care institution while under investigation for, or as a result of, the physician's competency or conduct;

B.8. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1249 (July 1999), LR 28:2352 (November 2002).

John B. Bobear, M.D.
Executive Director

0211#071

RULE

**Department of Health and Hospitals
Board of Practical Nurse Examiners**

Discipline, Licensure, and Temporary Permits
(LAC 46:XLVII.303, 306, 1703, 1705, and 1707)

The Board of Practical Nurse Examiners has amended LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§303. Additional Duties and Powers of the Board

A. - A.2. ...

3. determine the passing score for the practical nursing licensure examination of initial licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 26:2614 (November 2000), LR 28:2353 (November 2002).

§306. Rules and Adjudication and License Suspension and Revocation Proceedings

A. - B. ...

C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall not be revealed to any person except when such document(s) are offered for evidence in a formal hearing.

D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing.

E. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default. A consent order or agreed settlement shall be presented to the board for approval before it becomes binding.

F. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the executive director, a formal hearing shall be scheduled before a hearing officer designated by the board. A decision to initiate a formal complaint by the board expressing the allegation(s) and specific violation(s) of R.S. 37:961-979 may be made if one or more of the following conditions exist:

1. the allegation(s) are sufficiently serious;
2. the licensee fails to respond to the board's correspondence concerning the allegation(s);
3. the licensee's response to the board's correspondence is insufficient, unsatisfactory, or fails to be convincing that no action is warranted;
4. an informal proceeding has failed to resolve all of the issues or allegation(s).

G. Formal hearing procedures shall commence with the filing of a formal complaint by the board. The complaint shall include:

1. a statement of the time, place and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a reference to the particular sections of R.S. 37:961 et seq., and/or rules involved;

4. A short and plain statement of the matters asserted. If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

H. The formal complaint shall be sent by certified mail, a minimum of 20 days prior to the hearing date, to the last known address of the accused licensee. If the mailing is not returned to the board, it is assumed to have been received by said licensee as it is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

I. The licensee shall return his/her response to the complaint to the board within 10 days or shall be deemed to have waived his/her right to a hearing. In response, the licensee shall either deny or admit the allegations of the complaint and may either:

1. appear for the scheduled hearing;
2. submit a written response to the hearing officer to be presented at the hearing in lieu of the licensee's live testimony; or
3. waive his/her right to a hearing.

J. If the licensee waives his/her right to a hearing or does not respond in writing within the time allotted, the hearing officer shall decide the case forthwith. The hearing officer shall make specific findings of fact, conclusions of law, and make recommendations to the board.

K. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

L. Except for conditions of extreme emergency, motions requesting the continuance of a formal hearing must be received by the board at least five days prior to the date fixed for a formal hearing. Such motion must express the specific reason(s) and show good cause why a continuance is warranted and be relevant for due process.

M. Discovery

1. Prior to a formal hearing, an accused licensee shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a licensee as a result of his/her exercise of said right shall be the sole responsibility and obligation of the licensee.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least five days prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused licensee. Such subpoenas include or are for the purpose of:

- a. requiring that a person appear and give testimony in the formal hearing; and
- b. subpoena duces tecum, requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:
 - i. the information requested is reasonable in terms of amount; and
 - ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;

iii. the information requested does not include those documents referred to in §306.C-D; and

iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. Prior to a formal hearing, an accused licensee shall, upon written notice received by the board at least five days prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Prior to a formal hearing, an accused licensee, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness which will or may be called to give testimony in a formal hearing.

5. Depositions for the purpose of discovery are not permissible and may only be allowed for the perpetuation of a witness's testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before and after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request. Motions made during a formal hearing shall be made orally, as they become a part of the transcript of the proceeding.

N. During a formal hearing, the licensee or his/her attorney shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony on behalf of the licensee. All testimony given during a formal hearing shall be under oath and before a certified stenographer.

O. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding shall not be transcribed until such time as a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

P. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board.

Q. The board shall make a decision based on the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the licensee by certified mail.

R. Sanctions imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the

licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

S. A petition by a party for reconsideration or rehearing must be in proper form and filed within 30 days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

1. the board's decision is clearly contrary to the law and the evidence;

2. there is newly discovered evidence which was not available to the board or the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

4. it would be in the public interest to further consider the issues and the evidence.

T. The grounds for disciplinary proceedings against a licensed practical nurse include, but are not limited to:

1. being guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;

2. being guilty of a crime;

3. being unfit, or incompetent by reason of negligence, habit or other causes;

4. being habitually intemperate or is addicted to the use of habit-forming drugs;

5. being mentally incompetent;

6. practicing practical nursing without being duly licensed to do so by the board;

7. using in connection with his name any designation tending to imply that he is a practical nurse without being duly licensed to practice by the board; or

8. being guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

- a. failure to practice practical nursing in accordance with the standards normally expected;
- b. failure to utilize appropriate judgment in administering nursing practice;
- c. failure to exercise technical competence in carrying out nursing care;
- d. violating the confidentiality of information or knowledge concerning a patient;
- e. performing procedures beyond the authorized scope of practical nursing;
- f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;
- g. improper use of drugs, medical supplies, or patients' records;
- h. misappropriating personal items of an individual or the agency;
- i. falsifying records;
- j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;
- k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;
- l. leaving a nursing assignment without properly notifying appropriate personnel;
- m. failing to report, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;
- n. being convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;
- o. being guilty of moral turpitude;
- p. inappropriate, incomplete or improper documentation;
- q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgment while on duty, to include making application for employment;
- r. possess a physical or psychological impairment which interferes with the judgment, skills or abilities required for the practice of practical nursing;
- s. refusal to cooperate with employer's request to submit to a drug screen;
- t. has violated any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aid or abet therein.

U. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR

20:663 (June 1994), amended LR 26:2614 (November 2000), LR 28:2353 (November 2002).

Chapter 17. Licensure

§1703. Types of Licensure

A. - A.2. ...

3. complete a board approved refresher course if a passing score is not attained within four years of program completion.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:971 and 37:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), LR 10:341 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1263 (November 1992), LR 28:2355 (November 2002).

§1705. Temporary Permit

A. A temporary permit to practice as a practical nurse in Louisiana may be issued as follows.

1. A temporary permit may be issued to graduates of approved or accredited practical nursing programs in Louisiana before the first writing of the licensure examination which permit shall expire upon the date of licensure of that examination and which shall not be subject to extension or renewal under any circumstances - including reentry and completion of a program in practical nursing, providing the application for licensure and the specified fee have been submitted by the applicant and an official transcript has been submitted by the institution from which he/she graduated.

A.2 - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:65 (March 1979), LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), LR 28:2355 (November 2002).

§1707. Retirement from Practice

A. - B.3. ...

C. Review Courses. Licensees or applicants for licensure in Louisiana who have been out of practice for four or more years shall be required to successfully complete a refresher course approved by the board. Said course shall have a clinical component of a minimum of 60 hours. Special student permits may be issued by the board to participants in such courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:972-975, 37:977, 37:978 and 37:979.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2614 (November 2000), LR 28:2355 (November 2002).

Claire Doody Glaviano
Executive Director

0211#085

RULE

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

Adult Day Health Care Services
Prospective Payment System
Reimbursement Methodology
(LAC 50:II.10909 and 10939)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This final Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 109. Standards for PaymentC Adult Day Health Care Services

§10909. Provider Agreement

A. - E.23. ...

F. DHH agrees to make payment to the provider on behalf of eligible recipients if the provider is enrolled in the Medicaid Program as an ADHC center.

G. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 13:181 (March 1987), LR 23:1150 (September 1997), LR 28:2356 (November 2002).

§10939. Prospective Payment System

A. General Provisions (Effective January 1, 2003 and thereafter)

1. Development. Adult Day Health Care (ADHC) providers shall be reimbursed a per diem rate for services provided under a prospective payment methodology. The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

2. The prospective payment methodology establishes statewide rates for services provided with components for direct care costs, care related costs, administrative and operating costs, and property costs.

3. Cost Centers

a. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

b. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

c. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries

and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

- i. utilities;
- ii. accounting;
- iii. dietary;
- iv. housekeeping and maintenance supplies; and
- v. all other administrative and operating type expenditures.

d. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

4. Rate Setting

a. Direct Care Costs. A statewide base rate for direct care is computed at 115 percent of the median facility per diem direct care costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Direct care costs are trended forward using the Consumer Price Index (CPI)C Medical Services.

b. Care Related Costs. A statewide base rate for care related costs is computed at 105 percent of the median facility per diem care related costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Care related costs are trended forward using the CPI C All Items.

c. Administrative and Operating Costs (OAC). A statewide base rate for administrative and operating costs is computed at 105 percent of the median facility per diem administrative and operating costs submitted on all acceptable cost reports except for those for which an audit disclaimer has been issued and are trended forward using the CPI C All Items.

d. Property. The property rate is computed at the median of property costs submitted on all acceptable full year cost reports. Inflation will not be added to property costs.

e. All trending shall be from the mid-point of the year preceding the cost report year to the midpoint of the year preceding the rate year.

f. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the legislature allocates funds for this purpose.

5. Total Per Diem Rate. The per diem rate is the sum of the rate components.

6. Cost Settlement. The direct care cost component shall be subject to cost settlement. Should an ADHC facility's cost report reveal that the provider did not expend an amount equal to 90 percent of the median cost trended forward for the year for direct care services, the Medicaid program will recover the difference between 90 percent of the median cost trended forward and the actual direct care amount expended.

B. Cost Reporting

1. Providers of adult day health care services are required to file annual cost reports of all reasonable and allowable costs. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the facility for no less than five years following the date reports are submitted to the Bureau. A chart of accounts and an accounting system on the accrual basis or converted at year end are required in the cost reporting preparation process. The Bureau or its designee will perform desk reviews of the cost reports. In

addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

2. The cost reporting forms and instructions developed by the Bureau must be used by all ADHC facilities participating in the Louisiana Medicaid Program. Hospital based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

3. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

a. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;

b. a depreciation schedule. If the facility has different book and Medicaid depreciation schedules, copies of both depreciation schedules must be submitted. If the facility has home office costs, copies of the home office depreciation schedules must also be submitted. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

c. an amortization schedule(s), if applicable;

d. a schedule of adjustment and reclassification entries;

e. a narrative description of purchased management services or a copy of contracts for managed services, if applicable;

f. a narrative description or a copy of the contracts for management services provided by a related party or home office, a description of the basis used to allocate the costs to providers of the group and to nonprovider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule;

g. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must be attached by facilities using the Medicare forms for allocation are:

- i. A;
- ii. A-6;
- iii. A-7, Parts I, II, and III;
- iv. A-8;
- v. A-8-1;
- vi. B, Part 1; and
- vii. B-1.

4. Each copy of the cost report must have the original signatures of an officer or facility administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

5. When it is determined upon initial review for completeness that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information that is not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses or cost findings that are not submitted.

6. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a facility is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the reporting period.

7. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the facility for five years from the date the cost report is submitted to the Bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

8. Nonacceptable Descriptions. "Miscellaneous," "Other" and "Various," without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a

request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made. (See §10939.B.10.c.xliii)

9. Exceptions. Limited exceptions to the cost report requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, providers must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows.

a. For the initial reporting period only, the provider may allocate costs to the various cost centers on a reasonable basis if the required itemized cost breakdown is not available.

b. If the center has been purchased, leased or has effected major changes in the accounting system as an ongoing concern within the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

c. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

10. Cost Categories Included in the Cost Report

a. Direct Care (DC) Costs

i. Salaries, Aides **C**gross salaries of certified nurse aides and nurse aides in training.

ii. Salaries, LPNs **C**gross salaries of non-supervisory licensed practical nurses and graduate practical nurses.

iii. Salaries, RNs **C**gross salaries of non-supervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).

iv. Salaries, Social Services **C**gross salaries of non-supervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.

v. Salaries, Activities **C**gross salaries of non-supervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well-being of the residents.

vi. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

vii. Group Insurance, DCC **C**cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

viii. Pensions, DCC **C**cost of employer's contribution to employee pensions for direct care employees.

ix. Uniform Allowance, DCC **C**employer's cost of uniform allowance and/or uniforms for direct care employees.

x. Worker's Comp, DCC **C**cost of worker's compensation insurance for direct care employees.

xi. Contract, Aides **C**cost of aides through contract that are not facility employees.

xii. Contract, LPNs **C**cost of LPNs and graduate practical nurses hired through contract that are not facility employees.

xiii. Contract, RNs **C**cost of RNs and graduate nurses hired through contract that are not facility employees.

xiv. Drugs, Over-the-Counter and Legend **C**cost of over-the-counter and legend drugs provided by the facility to its residents. This is for drugs not covered by Medicaid.

xv. Medical Supplies **C**cost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.

xvi. Medical Waste Disposal **C**cost of medical waste disposal including storage containers and disposal costs.

xvii. Other Supplies, DCC **C**cost of items used in the direct care of residents which are not patient-specific such as prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.

xviii. Allocated Costs, Hospital Based **C**the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

xix. Total Direct Care Costs **C**sum of the above line items.

b. Care Related Costs

i. Salaries **C**gross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.

ii. Salaries, Dietary **C**gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.

iii. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

iv. Group Insurance, CRC **C**cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.

v. Pensions, CRC **C**cost of employer's contribution to employee pensions for care related employees.

vi. Uniform Allowance, CRC **C**employer's cost of uniform allowance and/or uniforms for care related employees.

vii. Worker's Comp, CRC **C**cost of worker's compensation insurance for care related employees.

viii. Barber and Beauty Expense **C**the cost of barber and beauty services provided to patients for which no charges are made.

ix. Consultant Fees, Activities **C**fees paid to activities personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

x. Consultant Fees, Nursing **C**fees paid to nursing personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

xi. Consultant Fees, Pharmacy **C**fees paid to a registered pharmacist, not on the facility's payroll, for providing advisory and educational services to the facility.

xii. Consultant Fees, Social WorkerCfees paid to a social worker, not on the facility's payroll, for providing advisory and educational services to the facility.

xiii. Consultant Fees, TherapistsCfees paid to a licensed therapist, not on the facility's payroll, for providing advisory and educational services to the facility.

xiv. Food, RawCcost of food products used to provide meals and snacks to residents. Hospital based facilities must allocate food based on the number of meals served.

xv. Food, SupplementsCcost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

xvi. Supplies, CRCthe costs of supplies used for rendering care related services to the patients of the facility. All personal care related items such as shampoo and soap administered by all staff must be included on this line.

xvii. Allocated Costs, Hospital BasedCthe amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

xviii. Total Care Related CostsCthe sum of the care related cost line items.

c. Administrative and Operating Costs (AOC)

i. Salaries, AdministratorCgross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing facility.

ii. Salaries, Assistant AdministratorCgross salary of assistant administrators excluding owners.

iii. Salaries, HousekeepingCgross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

iv. Salaries, LaundryCgross salaries of laundry personnel.

v. Salaries, MaintenanceCgross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

vi. Salaries, DriversCgross salaries of personnel involved in transporting clients to and from the facility.

vii. Salaries, Other AdministrativeCgross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

viii. Salaries, Owner or Owner/AdministratorCgross salaries of all owners of the facility that are paid through the facility.

ix. Payroll TaxesCcost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

x. Group Insurance, AOCCcost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

xi. Pensions, AOCCcost of employer's contribution to employee pensions for administration and operating employees.

xii. Uniform Allowance, AOCCemployer's cost of uniform allowance and/or uniforms for administration and operating employees.

xiii. Worker's Compensation, AOCCcost of worker's compensation insurance for administration and operating employees.

xiv. Contract, DietaryCcost of dietary services and personnel hired through contract that are not employees of the facility.

xv. Contract, HousekeepingCcost of housekeeping services and personnel hired through contract that are not employees of the facility.

xvi. Contract, LaundryCcost of laundry services and personnel hired through contract that are not employees of the facility.

xvii. Contract, MaintenanceCcost of maintenance services and persons hired through contract that are not employees of the facility.

xviii. Consultant Fees, DieticianCfees paid to consulting registered dietitians.

xix. Accounting FeesCfees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care facility and other related services excluding personal tax planning and personal tax return preparation.

xx. Amortization Expense, Non-CapitalCcosts incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

xxi. Bank Service ChargesCfees paid to banks for service charges, excluding penalties and insufficient funds charges.

xxii. Dietary SuppliesCcosts of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

xxiii. DuesCdues to one organization are allowable.

xxiv. Educational Seminars and TrainingCthe registration cost for attending educational seminars and training by employees of the facility and costs incurred in the provision of in-house training for facility staff, excluding owners or administrative personnel

xxv. Housekeeping SuppliesCcost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

xxvi. Insurance, Professional Liability and OtherCincludes the costs of insuring the facility against injury and malpractice claims and the cost of vehicle insurance.

xxvii. Interest Expense, Non-Capital and VehiclesCinterest paid on short term borrowing for facility operations and on vehicle loans.

xxviii. Laundry SuppliesCcost of consumable goods used in the laundry including soap, detergent, starch and bleach.

xxix. Legal Fees Only actual and reasonable attorney fees incurred for non-litigation legal services related to patient care are allowed.

xxx. Linen Supplies Cost of sheets, blankets, pillows, gowns, underpads and diapers (reusable and disposable).

xxxi. Miscellaneous Costs incurred in providing facility services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, allowable advertising, and flowers purchased for the enjoyment of the clients. Items reported on this line must be specifically identified.

xxxii. Management Fees and Home Office Costs the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

xxxiii. Non-Emergency Medical Transportation the cost of purchased non-emergency medical transportation services including, but not limited to, payments to employees for use of personal vehicle, ambulance companies and other transportation companies for transporting patients of the facility.

xxxiv. Office Supplies and Subscriptions Cost of consumable goods used in the business office such as pencils, paper and computer supplies; cost of printing forms and stationery including but not limited to, nursing and medical forms, accounting and census forms, charge tickets, facility letterhead and billing forms; cost of subscribing to newspapers, magazines and periodicals.

xxxv. Postage Cost of postage, including stamps, metered postage, freight charges and courier services.

xxxvi. Repairs and Maintenance supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the facility building, furniture and equipment except vehicles. This includes computer software maintenance.

xxxvii. Taxes and Licenses the cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for facility staff (including nurse aide re-certifications) and buildings.

xxxviii. Telephone and Communications Cost of telephone services, WATS lines and fax services.

xxxix. Travel Cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct facility business. Commuting expenses and travel allowances are not allowable.

xl. Vehicle Expenses vehicle maintenance and supplies, including gas and oil.

xli. Utilities Cost of water, sewer, gas, electric, cable TV and garbage collection services.

xlii. Allocated Costs, Hospital Based Costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

xliii. Total Administrative and Operating Costs

d. Property and Equipment

i. Amortization Expense, Capital legal and other costs incurred when financing the facility must be amortized

over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

ii. Depreciation Depreciation on the facility's buildings, furniture, equipment, leasehold improvements and land improvements.

iii. Interest Expense, Capital interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the facility's land, buildings and/or furniture and equipment, excluding vehicles.

iv. Property Insurance Cost of fire and casualty insurance on facility buildings and equipment, excluding vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

v. Property Taxes taxes levied on the facility's buildings and equipment, excluding vehicles. Hospital based facilities and state owned facilities must allocate property insurance based on the number of square feet.

vi. Rent, Building Cost of leasing the facility's real property.

vii. Rent, Furniture and Equipment Cost of leasing the facility's furniture and equipment, excluding vehicles.

viii. Lease, Automotive Cost of leases for vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

ix. Allocated Costs, Hospital Based Costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

x. Total Property and Equipment.

11. Non-Allowable Costs. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of beneficiaries are considered non-allowable costs.

a. Reasonable cost does not include the following:

i. costs not related to client care;

ii. costs specifically not reimbursed under the program;

iii. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);

iv. costs that are found to be substantially out of line with other centers that are similar in size, scope of services and other relevant factors;

v. cost exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

b. General non-allowable costs:

i. services for which Medicaid recipients are charged a fee;

ii. depreciation of non-client care assets;

iii. services that are reimbursable by other state or federally funded programs;

iv. goods or services unrelated to client care;

- v. unreasonable costs.
- c. Specific Non-Allowable Costs (This is not an all inclusive listing.)
 - i. Advertising-costs of advertising to the general public that seeks to increase patient utilization of the ADHC center.
 - ii. Bad Debts—accounts receivable that are written off as not collectible.
 - iii. Contributions—amounts donated to charitable or other organizations.
 - iv. Courtesy allowances.
 - v. Director's fees.
 - vi. Educational costs for clients.
 - vii. Gifts.
 - viii. Goodwill or interest (debt service) on goodwill.
 - ix. Costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items.
 - x. Income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government.
 - xi. Insurance, Officers—cost of insurance on officers and key employees of the center when the insurance is not provided to all employees.
 - xii. Judgments or settlements of any kind.
 - xiii. Lobbying costs or political contributions, either directly or through a trade organization.
 - xiv. Non-client entertainment.
 - xv. Non-Medicaid Related Care Costs—costs allocated to portions of a facility that are not licensed as the reporting ADHC or are not certified to participate in Title XIX.
 - xvi. Officers' life insurance with the center or owner as beneficiary.
 - xvii. Payments to the parent organization or other related party.
 - xviii. Penalties and Sanctions—penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Services or the State Tax Commission; insufficient funds charges.
 - xix. Personal comfort items.
 - xx. Personal use of vehicles.
- C. Provider Reimbursement
 - 1. Cost Determination Definitions
 - a. Indices
 - i. CPI, All Items—the Consumer Price Index for All Urban Consumers—South Region (All items line) as published by the United States Department of Labor.
 - ii. CPI, Medical Services—the Consumer Price Index for All Urban Consumers—South Region (Medical Services line) as published by the United States Department of Labor.
 - b. Adjustment Factors—the adjustment factor is computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).
 - c. Rate Year—the rate year is the period from July 1 through June 30 of the next calendar year. It corresponds with the state fiscal year.
 - d. Base Rate—the base rate is the rate calculated in accordance with §10939.C.2.e plus any base rate adjustments granted in accordance with §10939.C.2.g of this

section which are in effect at the time of calculation of new rates or adjustments.

e. Base Rate Components—The base rate is the summation of the following:

- i. Direct Care.
- ii. Care Related Costs.
- iii. Administrative and Operating Costs.
- iv. Property Costs.

2. Rate Determination

a. Calculation of Base Rate—Rates are calculated from cost report data. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs. These general cost principles include determining whether the cost is ordinary, necessary, and related to delivery of care; the cost is what a prudent and cost conscious business person would pay for the specific goods or services in the open market in an arm's length transaction; and the cost is for goods or services actually provided to the center. Through the desk review and audit process, adjustments and/or disallowances may be made to a provider's reported costs. "HIM-15," the Medicare Provider Reimbursement Manual, is the final authority for allowable costs unless the Louisiana Department of Health and Hospitals has set a more restrictive policy.

b. Audited and desk reviewed costs for each component are ranked by facility to determine the value of each component at the median.

c. The median costs for each component are multiplied in accordance with §10939.A.4 then by the appropriate economic adjustment factors for each successive year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in §10939.C.2.g. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

d. The inflated median shall be increased to establish the base rate component as follows.

i. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

ii. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

iii. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

e. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

f. Formulae. Each cost component shall be calculated as follows.

i. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there

be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

ii. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

iii. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPIC All Items index for December of the year preceding the rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

iv. Property Cost Component. The property per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

g. Parameters and Limitations

i. Method of Calculation. All calculations described in this methodology shall be carried out algebraically.

ii. Rounding. In all calculations, the base rate and the base rate components will be rounded to the nearest one hundredth of a dollar (cent) and the economic adjustment factors will be rounded to four decimal places.

h. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of 5 percent or more, the rate may be changed. The Bureau will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The Bureau, however, may initiate a rate change without a request to do so. Changes to the rates may be one of two types; temporary adjustments or base rate adjustments as described below.

i. Temporary Adjustment. Temporary adjustments do not affect the base rate used to calculate new rates.

(a). Changes reflected in the economic indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period

covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

(b). Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the Bureau's review and approval of costs prior to reimbursement.

ii. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002).

David W. Hood
Secretary

0211#090

RULE

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

Pharmacy Benefits Management Program Prior Authorization Process

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This final 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 implements a prior authorization process with a preferred drug list for certain designated drugs covered under the Medicaid Pharmacy Benefits Management Program. The following provisions shall govern coverage for prescribed medications and/or supplies.

A. General Provisions

The medication must be prescribed by a practitioner who is authorized to prescribe under state law. The National Drug Code (NDC) must be shown on each pharmacy claim form for reimbursement of prescription drugs subject to rebates from manufacturers as mandated by federal law and regulations.

B. Covered Drugs

Coverage of drugs shall be limited to specific drug products authorized for reimbursement by therapeutic category and listed by generic name, strength/unit, NDC, and brand name. Those drug products subject to mandatory coverage as a result of a rebate agreement with the federal government will be covered until written notice is received from the Centers for Medicare and Medicaid Services that

coverage will be terminated. Providers will be given prior notice of termination of coverage as required under federal regulations.

C. Prior Authorization with a Preferred Drug List

As authorized by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8, a prior authorization process is established which utilizes a preferred drug list (PDL) for selected therapeutic classes. Drugs included on the PDL are automatically prior authorized. Drugs in those classes that are not included on the PDL shall require prescribers to obtain prior authorization. Providers will be notified of the drugs selected for placement on the PDL by selected therapeutic classes prior to implementation of the prior authorization process and as additional drugs are subsequently added to the list. Lists of covered drug products, including those that require prior authorization, will be maintained in either the Prescription Drug Services Manual, other designated service provider manuals, on the Louisiana Medicaid web site or provider notices.

The prior authorization process provides for a turn-around response by either telephone, mail or electronic communication within 24 hours of receipt of a prior authorization request. In emergency situations, providers may dispense at least a 72 hour supply of medication as mandated by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8.

The Pharmaceutical and Therapeutics Committee will make recommendations to the Department regarding drugs to be considered for prior authorization. The composition of and appointment to the Pharmaceutical and Therapeutics Committee complies with R.S. 46:153.3.D and 42 U.S.C.s1396r-8.

D. Drugs Excluded from Coverage

As provided by Section 1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. experimental drugs;
2. anorexics;
3. cough and cold preparations;
4. cosmetic drugs;
5. compounded prescriptions (mixtures of two or more ingredients the individual drugs will continue to be reimbursed);
6. medications which are included in the reimbursement to a facility, i.e., hospitals, skilled nursing facility for recipients receiving benefits under Part A of Title XVIII, mental hospitals, or some other nursing facilities;
7. non-legend drugs with some exceptions;
8. fertility drugs when used for fertility treatment;
9. vaccines covered in other programs; and
10. DESI Drugs (see E. below).

E. DESI Drugs

Those drugs that are subject to a Notice of Opportunity for Hearing (NOOH), as prescribed by Section 1927(k)(2)(A) of the Social Security Act, for which the Food and Drug Administration has proposed to withdraw from the market because they are "less than effective" or "identical, related, or similar drugs", and are identified as DESI ineffective drugs shall be excluded from coverage.

Implementation of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and

Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0211#091

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 60 Advertising of Life Insurance
(LAC 37:XIII.Chapter 41)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance amends its existing Regulation 60 relating to the Advertising of Life Insurance.

The amendments are necessary to facilitate regulatory efforts related to advertising over the Internet and other mass communication media, to include additional policy element definitions and to provide for related matters. The amendments affect the following Sections: §§4103, 4105, 4107, 4109, 4111, 4115, 4117 and 4123.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 41. Regulation 60: Advertising of Life Insurance

§4103. Definitions

Advertisement^C

1. material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy including:

a. printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, billboards, similar displays, the Internet or any other mass communication media;

b. descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed, or used by such insurer or insurance producer including, but not limited to, circulars, leaflets, booklets, web pages, depictions, illustrations, and form letters;

c. material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy;

d. prepared sales talks, presentations, and material for use by insurance producers.

2. *Advertisement*, for the purpose of these Rules shall not include:

a. communications or materials used within an insurer's own organization and not intended for dissemination to the public;

b. communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy;

c. a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

Department of Insurance the Louisiana Department of Insurance.

Determinable Policy Elements elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable policy elements only, or from both determinable and guaranteed policy elements.

Guaranteed Policy Elements the premiums, benefits, values, credits or charges under a policy, or elements of formulas used to determine any of these that are guaranteed and determined at issue.

Insurance Producer a person (as defined in R.S. 22:1212.D) solicits, negotiates, effects, procures, delivers, renews, continues, or binds policies of insurance for risks residing, located, or intended for issuance in this state.

Insurer includes any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's, Fraternal Benefit Society, and any other legal entity which is defined as an insurer in the *Louisiana Insurance Code* or issues life insurance or annuities in this state and is engaged in the advertisement of a policy.

Nonguaranteed Policy Elements the premiums, credited interest rates (including any bonus) benefits, values, non-interest based credits, charges, or elements that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation. *Policy* includes any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for life insurance or annuity benefits.

Pre-Need Funeral Contract or *Prearrangement* Can agreement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:2363 (November 2002).

§4105. Applicability

A. These rules shall apply to any life insurance or annuity advertisement intended for dissemination in this state. In variable contracts where disclosure requirements are established pursuant to federal regulation, this regulation shall be interpreted so as to eliminate conflict with federal regulation.

B. Every insurer shall establish, and at all times maintain, a system of control over the content, form, and method of dissemination of all advertisements of its policies. A system of control shall include regular and routine notification, at least once a year, to producers and others authorized by the insurer to disseminate advertisements of the requirement and procedures for company approval prior to the use of any advertisements that is not furnished by the insurer and that clearly sets forth within the notice the most serious consequence of not obtaining the required prior approval. All such advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer, as well as the producer who created or presented the advertisement, provided the insurer shall not be responsible for advertisements that are published in violation of written procedures or guidelines of the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:2364 (November 2002).

§4107. Form and Content of Advertisements

A. ...

B. No advertisement shall use the terms investment, investment plan, founder's plan, charter plan, deposit, expansion plan, profit, profits, profit sharing, interest plan, savings, savings plan, private pension plan, retirement plan or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:2364 (November 2002).

§4109. Disclosure Requirements

A. - C. ...

D. An advertisement shall not use as the name or title of a life insurance policy any phrase which does not include the words *life insurance* unless accompanied by other language clearly indicating it is life insurance. An advertisement shall not use as the name or title of an annuity contract any phrase that does not include the word "annuity" unless accompanied by other language clearly indicating it is an annuity. An annuity advertisement shall not refer to an annuity as a CD annuity, or deceptively compare an annuity to a certificate of deposit.

E. - F. ...

G. An advertisement for a life insurance policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.

H. ...

I. Premiums

1. - 4. ...

5. An advertisement shall not represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact.

6. An advertisement shall not use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan using nonguaranteed elements to pay a portion of future premiums.

J. Analogies between a life insurance policy's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments must be complete and accurate. An advertisement shall not emphasize the investment or tax features of a life insurance policy to such a degree that the advertisement would mislead the purchaser to believe the policy is anything other than life insurance.

K. - M. ...

N. No insurance producer may use terms such as *financial planner*, *investment advisor*, *financial consultant*, or *financial counseling* in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales, unless such actually is the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.

O. Nonguaranteed Policy Elements

1. - 5. ...

6. An advertisement shall not use or describe determinable policy elements in a manner that is misleading or has the capacity or tendency to mislead.

7. An advertisement may describe determinable policy elements as guaranteed but not determinable at issue. This description should include an explanation of how these elements operate, and their limitations, if any.

8. An advertisement may not state or imply that illustrated dividends under either or both a participating policy or pure endowment will be or can be sufficient at any future time to assure without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at that time and the conditions required for that to occur.

P. ...

Q. Testimonials, Appraisals, Analysis, or Endorsements by Third Parties

1. - 3. ...

4. When an endorsement refers to benefits received under a policy for a specific claim, the claim date, including

claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for a period of five years after the discontinuance of its use or publication.

R. - S.3. ...

T. Introductory, Initial or Special Offers and Enrollment Periods

1. - 2. ...

3. An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised.

T.4. - W.3. ...

4. Any illustrations, depictions or statements containing or based on determinable policy elements shall likewise set forth with equal prominence comparable illustrations, depictions or statements containing or based on guaranteed policy elements.

X. An advertisement of a life insurance policy or annuity that illustrates nonguaranteed values shall only do so in accordance with current applicable state law relative to illustrating such values for life and annuity contracts.

Y. An advertisement for the solicitation or sale of a pre-need funeral contract or prearrangement, as defined in §4103.H, which is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

1. ...

2. the nature of the relationship among the insurance producers, the provider of the funeral or cemetery merchandise or services, the administrator and any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:2364 (November 2002).

§4111. Identity of Insurer

A. The name of the insurer shall be clearly identified in all advertisements, and if any specific individual policy is advertised, it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. However, if an advertisement contains a listing of rates or features that is a composite of several different policies or contracts of different insurers, the advertisement shall so state, shall indicate, if applicable, that not all policies or contracts on which the composite is based may be available in all states, and shall provide a rating of the lowest rated insurer and reference the rating agency, but need not identify each insurer. If an advertisement identifies the issuing insurers, insurance issuer ratings need not be

stated. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:2365 (November 2002).

§4115. Statements about the Insurer

A. An advertisement shall not contain statements, pictures or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation, including but not limited to, placement of insurer's rating in the hierarchy of the rating system cited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:2366 (November 2002).

§4117. Enforcement Procedures

A. - C. ...

D. In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of this regulation shall be guilty of a violation of Part XXVI, Unfair Trade Practices, of the Louisiana Insurance Code, which regulates the trade practices on the business of insurance by defining and providing for the determination of all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:2366 (November 2002).

§4123. Effective Date

A. This revised regulation shall become effective upon final publication in the *Louisiana Register* and shall apply to any life insurance or annuity advertisement intended for dissemination in this state on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1229 (December 1996), amended LR 28:2366 (November 2002).

J. Robert Worley
Acting Commissioner

0211#075

RULE

Department of Natural Resources Office of Conservation Executive Division

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation has amended the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of ConservationC General Operations

Subpart 2. Statewide Order No. 29-R-02/03

Chapter 7. Fees

§701. Definitions

Application Fee Can amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer Can application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq.), or successor regulations.

Application for Commercial Class I Injection Well Can application to construct and/or operate a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells) Can application to construct and/or operate additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class II Injection Well Can application to construct and/or operate a commercial Class II injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.401 et seq.) or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells) Can application to construct and/or operate additional commercial Class II injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.401 et seq.), or successor regulations.

Application for Multiple Completion Can application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:1301 et seq.), or successor regulations.

Application for Noncommercial Injection Well Can application to construct and/or operate a Class I, II or III noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.401 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), and 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Permit to Drill (Minerals) Can application to drill in search of minerals, as authorized by R.S. 30:28.

Application for Public Hearing Can application for a public hearing as authorized by R.S. 30:1, et. seq.

Application for Substitute Unit Well Can application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit Can application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit Can application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit Can application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination Can application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application to Amend Permit to Drill (Injection or Other) Can application to alter, amend, or change a permit to drill, construct and/or operate an injection, or other well after its initial issuance, as authorized by R.S. 30:28.

Application to Amend Permit to Drill (Minerals) Can application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by R.S. 30:28.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the application fee provided herein.

Application to Commingle Can application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq.), or successor regulations.

Application to Process Form R-4 Application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

BOE Annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 6.

Capable Gas Natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil Crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well A Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 (LAC 43:XVII.101 et seq.) or 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the

Office of Conservation, on Class I wells in an amount not to exceed \$400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well A Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in R.S. 30:21.B(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class III Well A Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance Emergency authorization to transport oil from lease.

Production Fee Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$2,450,000 for Fiscal Year 2002-2003 and thereafter.

Production Well Any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells or incapable oil wells or incapable gas wells certified by the Severance Tax Division of the Department of Revenue and Taxation.

Regulatory Fee Can amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed \$875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility Commercial E&P waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall

within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations.

Type B Facility Commercial E&P waste disposal facilities within the State that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March, 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), amended by the Department of Natural Resources, Office of Conservation, Executive Division LR:28:2366 (November 2002).

§703. Fee Schedule for Fiscal Year 2002-2003

A. Fee Schedule

Application Fees	Amount
Application for Unit Termination	\$ 252
Application for Substitute Unit Well	\$ 252
Application for Public Hearing	\$ 700
Application for Multiple Completion	\$ 126
Application to Commingle	\$ 252
Application for Automatic Custody Transfer	\$ 252
Application for Noncommercial Injection Well	\$ 252
Application for Commercial Class I Injection Well	\$1,264
Application for Commercial Class I injection Well (Additional Wells)	\$ 631
Application for Commercial Class II Injection Well	\$ 631
Application for Commercial Class II Injection Well (Additional Wells)	\$ 314
Application for Permit to Drill Minerals: 0'-3,000'	\$ 126
Application for Permit to Drill Minerals: 3,001'-10,000'	\$ 631
Application for Permit to Drill Minerals: 10,001'+	\$1,264
Drill Minerals Deeper (> 3,000')	\$ 504
Drill Minerals Deeper (> 10,000')	\$ 632
Application to Amend Permit to Drill Minerals	\$ 126
Application to Amend Permit to Drill Injection or Other	\$ 126
Application for Surface Mining Exploration Permit	\$ 65
Application for Surface Mining Development Operations Permit	\$ 94
Application for Surface Mining Permit	\$2,212
Application to Process Form R-4	\$ 36
Application to Reinstate Suspended Form R-4	\$ 65
Application for Emergency Clearance Form R-4	\$ 65

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,650 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,825 per facility.

3. Operators of record of permitted non-commercial Class II injection/disposal wells are required to pay \$ 575 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$575 per well.

C. Class I Well Fees. Operators of permitted Class I wells are required to pay \$9,090 per well.

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

Annual Production (Barrel Oil Equivalent)	Fee (\$ per Well)
Tier 1	0
Tier 2	1-5,000
Tier 3	5,001-15,000
Tier 4	15,001-30,000
Tier 5	30,001-60,000
Tier 6	60,001-110,000
Tier 7	110,001-9,999,999

E. Exceptions

1. Operators of record of each Class I injection/disposal well and each Type A and B commercial facility that is permitted, but has not yet been constructed, are required to pay an annual fee of 50 percent of the applicable fee for each well or facility.

2. Operators of record of each inactive Type A and B facility which have voluntarily ceased the receipt and disposal of E&P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual Regulatory Fee of 50 percent of the annual fee for each applicable Type A or B facility.

3. Operators of record of each inactive Type A or B facility which have voluntarily ceased the receipt and disposal of E&P waste, have completed Office of Conservation approved closure activities and are conducting a post-closure maintenance and monitoring program, are required to pay an annual Regulatory Fee of 25 percent of the annual fee for each applicable Type A or B facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October, 2000), LR 27:1920 (November 2001), amended by the Department of Natural Resources, Office of Conservation, Executive Division LR:28:2368 (November 2002).

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties provided in Title 30 of the Louisiana Revised Statutes of 1950, including but not limited to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October, 2000), LR 27:1921 (November 2001), amended by the Department of Natural Resources, Office of Conservation, Executive Division LR:28:2368 (November 2002).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-02/03, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968.H(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect

without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-02/03) supercedes Statewide Order No. 29-R-01/02.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October, 2000), LR 27:1921 (November 2001), amended by the Department of Natural Resources, Office of Conservation, Executive Division LR:28:2368 (November 2002).

James H. Welsh
Commissioner

0211#031

RULE

Department of Public Safety and Corrections Office of State Police

Collection, Submission, Receipt, Identification,
Storage and Disposal of DNA Samples CArrestees
(LAC 55:I.2730-2727)

Pursuant to R.S. 15:601 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Services, Office of State Police adopts LAC 55:I.Chapter 27. Notice is further given that the Department has promulgated the following rules and regulations which establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for arrestees as defined in R.S. 15:601 et seq.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

Subchapter B. Arrestees

§2720. Scope, Purpose and Application

A. Scope, Purpose, and Application. To provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for arrestees for a state database/CODIS pursuant to R.S. 15:601 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002).

§2721. Definitions

AFISCthe Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

ArresteeCa person arrested for a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

Biological SampleCbiological evidence of any nature that is utilized to conduct DNA analysis.

CAJUNCthe Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

Crime LaboratoryCLouisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

DepartmentCDepartment of Public Safety and Corrections, Public Safety Services.

DirectorCthe director of the Louisiana State Police Crime Laboratory.

DNACdeoxyribonucleic acid.

DNA AnalysisCDNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA DatabaseCthe DNA identification record system maintained and administered by the Director.

DNA Arrestee Database Collection Kit or KitCthe kit provided by the Department for the collection of DNA samples.

DNA RecordCDNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DPS & CCDepartment of Public Safety and Corrections.

Evidence TechnicianCindividual authorized by the Director to perform the duties set forth in LAC 55:I.2301 et seq.

FBICFederal Bureau of Investigation within the United States Department of Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002).

§2722. Collection, Submission, and Identification of DNA Samples for Arrestees

A. All biological samples obtained for DNA Analysis from an arrestee shall be collected using an approved Louisiana State Police Crime Laboratory DNA Arrestee Collection kit as supplied by the department.

1. An arrestee collection kit shall contain materials for collection of a biological sample for use in DNA analysis.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Any DNA Database Arrestee Collection Kit Envelope, Kit Arrestee Shipping Envelope, DNA Arrestee Database Information Card, DNA Database Collection Card or AFIS or CAJUN Printout identifying the arrestee that may be used as part of the kit shall have the same number as the kit used for collection.

3. All biological samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete an Arrestee DNA Database Information Card or utilize an AFIS or CAJUN Printout which contains the identifying information of the arrestee when obtaining a sample.

a. In the event an Arrestee DNA Database Information Card is used, the collector shall fill in all requested information as completely as possible.

b. If an AFIS or CAJUN printout is used, identifying information of the arrestee will be contained on the printout.

c. An Arrestee DNA Collection Card or a space on the AFIS or CAJUN printout utilized for all necessary collection information shall be filled out as completely as possible and shall include the following information: name of collector, signature of collector, date and time of sample collection.

5. All biological samples shall be obtained using recognized and approved medical procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002).

§2723. Security of Biological Samples at Booking Facility

A. All collectors and employees of the booking facility shall ensure that all biological samples taken from arrestees are kept in a secure place within the booking facility until the samples are shipped to the Crime Laboratory pursuant to these regulations. All collectors shall also ensure that pursuant to R.S. 15:617 and any Biological Sample Security Procedures established by the Crime Laboratory, that no unauthorized disclosures regarding any biological sample taken from any arrestee are permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002).

§2724. Shipping of DNA Samples for Arrestees

A. DNA samples collected in accordance with these procedures shall be submitted to the Crime Laboratory in person by approved personnel or via delivery service, such as U.S. Mail in accordance with the Crime Laboratory's Quality Manual. The mailing envelope shall be mailed or delivered to the Crime Laboratory after collection to the following address:

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002).

§2725. Record Keeping of DNA Samples for Arrestees

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g. refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be forwarded on an audit form provided by the department to the CODIS DNA Unit on a daily basis, via both facsimile and U.S. Mail. If the mailing envelopes are hand delivered to the Crime Laboratory, the

audit form shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002).

§2726. Storage of DNA Samples for Arrestees

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area designated by the Crime Laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with Crime Lab Evidence and Handling Policies and Procedures. Only authorized personnel shall open a sealed kit or specimen bag and, if applicable shall initial and date the broken seal and shall reseal the kit or specimen bag in accordance with standard forensic operating procedures.

B. DNA samples from arrestees on any arrestee DNA Database Collection Cards and AFIS or CAJUN printouts shall be stored for the time period as prescribed by Louisiana law in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002).

§2727. Severability

A. If any article, section, subsection, sentence, clause or phrase of LAC 55:I:2320 et seq. is for any reason determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of LAC 55:I.2301 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002).

Christopher A. Keaton
Undersecretary

0211#072

RULE

Department of Public Safety and Corrections Gaming Control Board

Imposition of Sanctions (LAC 42:VII.2325)

Editor's Note: Section 2325 is being repromulgated to correct a typographical error. The original Rule may be viewed in its entirety on pages 2255-2256.

The Louisiana Gaming Control Board has amended VII.2325, IX.4103 and XIII.2325 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-Mutual Live Racing Facility Slot
Maching Gaming**

**Chapter 23. Compliance, Inspections and
Investigations**

§2325. Imposition of Sanctions

A. The division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. The proscriptive period is the amount of time determined by the division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the licensee, or permittee receives the significant action report or violation/inspection report. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$100,000, the matter shall be forwarded to the Board for further administrative action. In such case, the board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

- B. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

2954	Tournaments	5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1321 (June 2000), amended LR 27:2255 (December 2001), LR 28:1029 (May 2002), repromulgated LR 28:2371 (November 2002).

Hillary J. Crain
Chairman

0211#015

RULE

**Department of Revenue
Policy Services Division**

Collection of In-State Tax Liabilities by Debt
Collection Agencies or the Attorney General's Office
(LAC 61:I.4913)

Under the authority of R.S. 47:1511 and R.S. 47: 1516.1 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of

Revenue, Policy Services Division, adopts LAC 61:I.4913, the rules and regulations pertaining to the authority of the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of in-state tax liabilities.

R.S. 47:1516.1 authorizes the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of certain in-state tax liabilities. The in-state debt collection contract Request for Proposal will be advertised in the official journal of the state and in one or more newspapers for at least 10 days before the last day that proposals will be accepted. The deadline for inquiries shall be no less than four weeks after the issuance of the Request for Proposal and the due date for submission of the proposals shall be no less than three weeks after the deadline for inquiries. The secretary will select a committee to evaluate the proposals and make a recommendation and applicants will be notified of the selection in a timely manner.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 49. Tax Collection

**§4913. Collection of In-State Tax Liabilities by Debt
Collection Agencies or the Attorney General's
Office**

A. Definitions

1. For purposes of this Rule, the following terms shall have the meaning ascribed to them.

Attorney General—the attorney general of the state of Louisiana.

Collection Contractor—the attorney general or one or more private persons, companies, associations, or corporations who provide debt collection services inside the state.

B.1. The secretary is authorized to enter into contracts with collection contractors to facilitate the collection of taxes, interest, penalties, and fees due the department after an obligation has become collectible by distraint and sale.

2. The secretary may only enter into a collection contract after notice by regular mail has been transmitted to the taxpayer at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity that will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from United States Postal Service certified software.

3. The taxpayer will be informed of the following:

- a. that the obligation is a final judgment;
- b. all the actions the secretary is authorized to take in order to collect the debt; and
- c. that if the debt is not paid within 60 days of the date of the notice, a collection fee not to exceed 25 percent of the total liability will be charged to the account.

4. The taxpayer must pay the full amount of any additional charge for the collection of any taxes, interest, penalties, or fees. If an account is referred to a collection contractor, the additional charge will be paid to the collection contractor.

C. The secretary will consider the following criteria in selecting collection contractors:

RULE

**Department of Revenue
Policy Services Division**

**Use of Dyed Special Fuel by Fire Trucks
(LAC 61:I.3363)**

1. fees charged;
2. organizational structure;
3. experience with government accounts;
4. computer capabilities including the ability to generate reports and formatting;
5. collection methodology;
6. financial stability; and,
7. personnel resources.

D. Prior to entering into any contract, the secretary will require a performance bond, cash, or securities from the collection contractor in an amount not to exceed \$100,000.

E. Once the collection contract is entered into, the secretary will provide information to the collection contractors concerning the accounts of individual taxpayers only to the extent necessary for the collection contractor to fulfill his contractual obligation.

a. The information furnished by the secretary will be considered confidential and privileged by the collection contractor and members of his staff, as provided by R.S. 47:1508.

b. Collection contractors may not take any action that exceeds the authority of the secretary and must follow the Fair Debt Collection Practices Act.

F. With the approval of the secretary, the collection contractor may file suit, at his expense, in the name of the secretary in the courts of this state for the purpose of collecting the tax debt.

G.1. Nothing contained in this Rule shall be construed to affect in any manner any rights and remedies available to the taxpayer.

2. This Rule does not apply to a spouse who qualifies for liability relief under the innocent spouse provisions of R.S. 47:101.B(7).

H. The attorney general will have a right of first refusal for all accounts selected to be sent to a collection contractor.

1. A list of accounts selected will be compiled by the secretary and forwarded to the attorney general for the exercise of his right of first refusal.

2. The right of first refusal shall be exercised within 30 days of the date of mailing or electronic transmission of the list.

3. If the attorney general fails to exercise his right of first refusal within 30 days or refuses to accept an account, the secretary may send the account to any collection contractor meeting the requirements of Subsection C.

4. When the attorney general accepts an account for collection, the collection fee may not exceed 15 percent of the total liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1516.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 28:2371 (November 2002).

Cynthia Bridges
Secretary

0211#054

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 issues LAC 61:I.3363 to provide guidance as to the information to be submitted for the purpose of applying for an "FD" number as provided in R.S. 47:803.2.

Act 28 of the 2002 Regular Session of the Louisiana Legislature enacted R.S. 47:901(13) defining, for the purposes of the Special Fuels Tax Law, "fire trucks" to mean vehicles built with the capability of operating fire fighting equipment such as hoses, ladders, and pumps and carrying teams of firefighters to fire scenes. Act 28 also enacted R.S. 47:803.2 to allow fire departments or districts that meet certain qualifications to purchase untaxed dyed special fuel for use in the operation of fire trucks and to remit the applicable state special fuels tax directly to the Department of Revenue on a monthly basis.

To qualify for the direct payment "FD" number, the fire department or district must certify to the Department of Revenue that the department or district does not have access to bulk storage for tax-paid clear special fuels, that tax-paid clear special fuel is not available within the fire district, and that the only special fuel available within the fire district for use in the fire trucks is untaxed dyed special fuel.

This rule outlines the type of information that is needed to accompany the application for the "FD" number so that representatives of the Department may determine whether the applying fire department/district meets the established qualifications.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 33. Petroleum Products: Special Fuels Tax
Subchapter B. Users of Special Fuel**

§3363. Use of Dyed Special Fuel by Fire Trucks

A. Before purchasing untaxed dyed special fuel to be used for taxable purposes in fire trucks as defined in R.S. 47:801(13), the fire department or district must submit a Registration Application with the Department of Revenue to obtain a direct payment "FD" number for reporting untaxed dyed special fuel purchases and remitting the applicable state tax on the fuel used for taxable purposes.

B. The application must be made on a form as prescribed by the secretary and include the following information:

1. the vehicles and equipment for which application is being made;
2. the geographical location and boundaries of the fire district including a map of the fire district;

3. a list of service stations and retail fuel outlets providing special fuel located within the fire district complete with their addresses; and

4. the availability of bulk fuel storage within the fire district to which the fire trucks are authorized access.

C. After an inspection by representatives of the Department, if the qualifications are met, an "FD" number and certificate will be issued to the applicant that will allow the fire department or district to purchase dyed special fuel for the operation of fire trucks as defined in R.S. 47:801(13).

D. Holders of "FD" numbers shall file a report with the Department on a monthly basis and provide the information so required in accordance with R.S. 47:803.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Legal Affairs, Policy Services Division, LR 28:2372 (November 2002).

Cynthia Bridges
Secretary

0211#055

RULE

Department of Social Services Rehabilitation Services Commission for the Deaf

Purchase and Distribution of Assistive Hearing Devices (LAC 67:VII.305)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), has revised the Louisiana Commission for the Deaf's Rules of Operation.

This Rule is to provide for the addition of rules governing the purchase and distribution of assistive hearing devices including hearing aids.

Title 67

SOCIAL SERVICES

Part VII. Louisiana Rehabilitation Services

Chapter 3. Commission for the Deaf

§305. Role And Function

A. - A.10.c. ...

d. the purchase and distribution of assistive hearing devices including hearing aids;

i. eligibility for the hearing aid program will include an economic need factor of 250 percent of Federal poverty guidelines, an age factor of 50 years and older, a hearing loss factor of 40 decibels or greater, and individuals may not be eligible for any other State or Federal program providing assistance with hearing aid purchases. Younger individuals who meet all other eligibility requirements may be considered on an individual basis according to funding availability

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with RS. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Commission for the Deaf, LR 13:94 (February 1987), amended by the Department of Social Services, Rehabilitative Services, Commission for the Deaf, IR 17:388

(April 1991), LR 21:589 (June 1995), LR 24:494 (March 1998), LR 28:2373 (November 2002).

Gwendolyn P. Hamilton
Secretary

0211#050

RULE

Department of Social Services Office of Family Support

TANF Initiatives Program C 2002 Initiatives (LAC 67:III.5511, 5531, 5547-5553, and 5557)

Pursuant to the authority granted to the Department of Social Services, Office of Family Support, by the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana, the agency has adopted LAC 67:III, Subpart 15, §5549. Additionally, the agency has adopted §§5551, 5553, and 5557, and amended §§5511, 5531, and 5547, pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature.

All programs have been effected by several Declarations of Emergency. Section 5549 was effected by an Emergency Rule signed April 12, 2002. The amendment to Section 5531 was effected by an Emergency Rule signed June 1, 2002. The Rules were published respectively in the May and June 2002 issues of the *Louisiana Register*. Adoption of §§5551, 5553, and 5557, and amendments to §§5511 and 5547 were effected by Declarations of Emergency signed July 1, 2002.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5511. Micro-Enterprise Development

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

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:2373 (November 2002).

§5531. After-School Tutorial and Summer Enrichment Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services and, effective June 1, 2002, summer enrichment programs.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 12, 2001 Reg. Session, and Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 28:2373 (November 2002).

§5547. Housing Services

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

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:2374 (November 2002).

§5549. OCS Child Welfare Programs (Effective April 12, 2002)

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. Subsequent to the authorization of the U.S. Department of Health and Human Services, Administration for Children and Families, regarding TANF Maintenance of Effort funds, the agency will identify eligible services retroactive to January 1, 2002. The methods of collaboration include:

1. Child Protection Investigation (CPI) comprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent, an adult caretaker relative, or a legal guardian, to determine whether an emergency exists, and when deemed necessary, to develop a safety plan which may include coordination of services, emergency removal and placement, referral to OCS Family Services or another appropriate agency, short term counseling, parenting guidance, and/or arrangements for concrete services, such as the Preventive Assistance Fund (PAF) and Reunification Assistance Fund (RAF). CPI, PAF, and RAF activities were previously part of the OCS Emergency Assistance Program, for which federal TANF funds are deemed eligible under section 404(a)2) of 42 USC 604.

2. Family Services comprises services to a child or children and their parents, adult caretakers relative, or legal guardian, after an allegation of child neglect or abuse has been validated, to assist in preventing the removal of a child from his care giver or, where temporary emergency removal has already occurred in validated abuse and/or neglect cases, to help reunite the family by returning the child. Services are also provided to a family who requests protective services on its own when it is believed that a child in the family would be at risk. Elements of Family Services include problem

identification, family assessment, risk assessment, safety planning, case planning, counseling, problem resolution, provision of or arrangements for needed services, and/or concrete aid through the Preventive Assistance Fund.

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

C. Financial eligibility for those services attributable to TANF/Maintenance of Effort funds is limited to needy families which include a minor child living with a custodial parent, an adult caretaker relative, or a legal guardian. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), or Supplemental Security Income (SSI).

D. Services are considered non-assistance by the agency. AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002).

§5551. Community Response Initiative (Effective July 1, 2002)

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

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

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

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

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

E. Services are considered non-assistance by the agency. AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002).

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

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families referred by, and receiving services in certain parish offices from, the Office of Community Services (OCS).

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level and in which any member receives services through OCS as Child Protection Investigation clients, Family Services clients, or Foster Care clients.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2375 (November 2002).

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

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Louisiana Housing Finance Agency (LHFA) to provide energy assistance to low-income families based on the availability of funding and a determination of need by the agency, and to educate those families regarding energy conservation. The energy assistance payments shall be provided to LHFA for reimbursement of payments made to utility companies by LHFA on behalf of needy families with minor children.

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2375 (November 2002).

Gwendolyn P. Hamilton
Secretary

0211#051

RULE

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

2003 Wild Turkey Season
(LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission does hereby amend the turkey rules and regulations for the 2003 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or

indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002).

§115. Statewide Turkey Hunting Areas-Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/season

B. 2003 Turkey Hunting Schedule

Area	Season Dates
A	March 22-April 20
B	March 22-April 13
C	March 22-March 30

C. 2003 Turkey Hunting Season C Open Only in the Following Areas

1. Area A C March 22-April 20

a. All of the following parishes are open:

- i. East Baton Rouge;
- ii. East Feliciana;
- iii. LaSalle;
- iv. Livingston;
- v. Natchitoches (Exception: See Federal Lands

Hunting Schedule for Kisatchie National Forest dates);

- vi. St. Helena;

- vii. St. Tammany;
- viii. Tangipahoa;
- ix. Washington;
- x. West Baton Rouge;
- xi. West Feliciana (including Raccourci Island).

b. Portions of the following parishes are also open:

i. Allen: North of LA 26 from DeRidder to the junction of LA 104 and north of LA 104;

ii. Avoyelles: That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;

iii. Beauregard: North of LA 26 east of DeRidder, north and east of US 171-190 from the junction of LA 26 to DeRidder, and north of US 190 from DeRidder to Texas state line;

iv. Caldwell: West of Ouachita River southward to Catahoula Parish line, east of LA 165 from LaSalle Parish line to the junction of LA 126, north of LA 126 westward to the Winn Parish line;

v. Catahoula: West of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north of LA 8 to LA 126, north and east of LA 126. ALSO that portion lying east of LA 15;

vi. Concordia: That portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;

vii. Evangeline: North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;

viii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

ix. Grant: All of the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates;

x. Iberville: West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xi. Madison: That portion lying west of US 65 and south of US 80;

xii. Pointe Coupee: All of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

xiii. Rapides: All of the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. EXCEPTION: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates;

xiv. Richland: That portion south of US 80 and east of LA 17;

xv. Sabine: That portion north of LA 6 from Toledo Bend Lake to Many; east of US 171 from Many to the Vernon Parish line;

xvi. St. Landry: That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. EXCEPTION: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvii. Upper St. Martin: All within the Atchafalaya Basin. EXCEPTIONS: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xviii. Tensas: That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;

xix. Vernon: That portion east of US 171 from the Sabine Parish line to the junction of LA 111, south of LA 111 westward to LA 392, and south of LA 392 westward to the Sabine Parish line. EXCEPTION: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates.

2. Area BCMarch 22-April 13

a. All of the following parishes are open:

- i. Bienville;
- ii. Bossier;
- iii. Claiborne;
- iv. DeSoto;
- v. Jackson;
- vi. Lincoln;
- vii. Red River;
- viii. Union;

ix. Webster (EXCEPTION: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);

x. Winn (EXCEPTION: See Federal Lands Hunting Schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are open:

i. Allen: South and west of LA 26 from DeRidder to US 190 east of Elton, north of US 190 from the junction of LA 26 to Kinder and west of US 165 south of Kinder;

ii. Beauregard: South of LA 26 east of DeRidder, east of US 171 from the junction of LA 26 and south of LA 12 west of Ragley;

iii. Calcasieu: South of LA 12 east of DeQuincy, east of LA 27 from DeQuincy to I-10 and North of I-10 east of Sulphur;

iv. East Carroll: East of US 65 from Arkansas state line to Madison Parish line;

v. Jefferson Davis: North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

vi. Ouachita: East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;

vii. Madison: South of US 80 and east of US 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

viii. Morehouse: West of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA 139, west of LA 139 to Ouachita Parish line.

3. Area CCMarch 22-March 30

a. All of the following parishes are open:

i. Caddo.

b. Portions of the following parishes are open:

i. Ascension: All east of the Mississippi River;

ii. Catahoula: That portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

iii. Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to US 65 (Clayton), east of US 65 northward to Tensas Parish line;

iv. Franklin: That portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line;

v. Iberville: All east of the Mississippi River;

vi. Richland: West of LA 17 from Franklin Parish line to Ringle Rd., south of Ringle Rd. to Ferguson Rd., south of Ferguson Rd. to Little Rd., south of Little Rd. to Big Creek, east of Big Creek to Franklin Parish line;

vii. Tensas: East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002).

§117. 2003 Wildlife Management Area Turkey Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs except in designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunters possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts. Bayou Macon, Boise-Vernon, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk, Jackson-Bienville, Loggy Bayou, Sherburne, and West Bay WMAs. Deadline for receiving applications for all lottery hunts is February 14, 2003. An application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 5-6	Self-Clearing	April 5-6
Bens Creek ¹	March 22-April 13	Self-Clearing	None
Big Lake	March 22-30	Self-Clearing	None
Bodcau	March 22-April 6	Self-Clearing	None
Boeuf	March 22-30	Self-Clearing	None
Boise Vernon	March 22-23 March 29-April 13	Self-Clearing	March 22-23 March 29-30
Camp Beauregard	March 22-April 6	Self-Clearing	None
Fort Polk	March 22-April 20	Self-Clearing	None
Grassy Lake	March 22-April 6	Self-Clearing	None
Hutchinson Creek	March 22-April 20	Self-Clearing	None
Jackson-Bienville	March 22-April 6	Self-Clearing	None
Little River	March 22-April 6	Self-clearing	None
Loggy Bayou	April 12-13	Self-Clearing	April 12-13
Pearl River	March 22-April 13	Self-Clearing	None
Peason Ridge	March 22-April 20	Self-Clearing	None
Plum Creek (formerly Georgia Pacific)	March 22-30	Self-Clearing	None
Pomme de Terre	March 22-April 6	Self-Clearing	None
Red River	March 22-30	Self-Clearing	None
Sabine	March 22-23 March 29-30	Self-Clearing	March 22-23 March 29-30
Sandy Hollow ¹	March 22-April 13	Self-Clearing	None
Sherburne ²	March 22-30	Self-Clearing	March 22-23 March 24-26

Sicily Island	March 22-30	Self-Clearing	March 22-24 March 25-27 March 28-30
Three Rivers	March 22-30	Self-Clearing	None
Tunica Hills South Tract	March 22-23 March 29-30 April 12-13 April 19-20	Self-Clearing	March 22-23 March 29-30 April 12-13 April 19-20
Tunica Hills Angola Tract ³	March 22-23 March 29-30 April 12-13 April 19-20	Self-Clearing	March 22-23 March 29-30 April 12-13 April 19-20
Union	April 5-6	Self-Clearing	April 5-6
Walnut Hills	March 22-April 20	Self-Clearing	None
West Bay	March 22-23 March 29-30	Self-Clearing	March 22-23 March 29-30

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 14, 2003.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Scouting access limited. Contact Region 7 office for details (225) 765-2360.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 15
Big Lake	March 15
Fort Polk	March 15
Jackson-Bienville	March 15
Loggy Bayou	April 5
Sherburne	March 15
West Bay	March 15

E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule: Caney Ranger District, March 22-April 6; all remaining KNF lands, March 22-April 13 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. Indian Bayou Area (U.S. Army Corps of Engineers), Turkey Hunting Schedule: March 15 handicap only hunt, March 22-30, lottery hunt only on March 22-23 and March 24-26. Contact USCOE at 337-585-0853 for further information.

3. National Wildlife Refuges: Bogue Chitto NWR, March 22BApril 20; Lake Ophelia NWR, March 22-24 (lottery only), March 29-31(lottery only), April 1-6; Tensas NWR, March 15-16 (youth lottery only), March 22BApril 6. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:2377 (November 2002).

Thomas M. Gattle, Jr.
Chairman

0211#078

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
CGuidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975).

At its September 2002 meeting, the State Board of Elementary and Secondary Education revised the Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21. These guidelines provide guidance, clarification to *Bulletin 741* Standards 2.026.06, 2.026.08 and 2.026.09 as they relate to the participation of students transferring into the public schools from nonpublic schools and home schooling. The revisions:

- removed any reference to the special education waiver;
- clarified student eligibility to attend summer remediation;
- clarified eligibility requirements for the appeals process;
- outlined the role of the local Pupil Progression Plan in governing grade placement; and
- defined a Louisiana resident for the purposes of this policy.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21

Students in Grades 5 and 9 transferring to the public school system from any in-state nonpublic school or any home schooling program, or any Louisiana resident transferring from any out-of-state school shall be required to

take the 4th or 8th Grade LEAP 21 English Language Arts and Mathematics Tests and score at the *Approaching Basic* or above achievement level. The following Guidelines shall apply.

1. Students may take LEAP 21 at either the Spring or Summer administration prior to enrollment. It is the responsibility of the parent to contact the District Test Coordinator to register for the test.

2. The nonpublic school and parent (or home schooling parent) is responsible for providing the District Test Coordinator, at least 10 working days prior to the testing date, any documentation required for requested standard testing accommodations.

3. Students with disabilities who have a current 1508 evaluation will participate in on-level LEAP 21 testing. Promotion decisions for these students will adhere to those policies as outlined in the High Stakes Testing Policy.

4. School systems may charge a fee for the testing of nonpublic and home schooling students. This testing fee shall be refunded upon the student's enrollment in that public school system the semester immediately following the testing.

5. Students who participate in the Spring administration and score at the *Unsatisfactory* achievement level are eligible to retake the LEAP 21 at the Summer administration.

6. Local school systems shall offer LEAP 21 summer remediation to nonpublic/home schooling 4th and 8th Grade students who score at the *Unsatisfactory LEAP 21* achievement level and to those who did not test in the spring, but wish to prepare for the Summer administration. School systems may charge a fee, not to exceed \$100 per student for this attendance. This summer remediation fee shall be refunded upon the student's enrollment in that public school system the semester immediately following summer remediation.

7. Students who score at the *Unsatisfactory* achievement level are not required to attend summer school offered by the local school system to be eligible to take the Summer retest. However, students must attend the LEA offered summer school to be eligible for the appeal process or the policy override.

8. Only those students who score at the *Unsatisfactory* achievement level after participation in both the Spring and Summer administration of the LEAP 21 and who attend the summer school offered by the local school system are eligible for the appeals process or the policy override, provided all criteria are met. (Refer to the High-Stakes Testing Policy.)

9. Students who participate in the Spring administration only or Summer administration only and score at the *Unsatisfactory* achievement level are not eligible for the appeals process or the policy override. These students are not eligible to take The Iowa Tests for placement purposes.

10. Students transferring into local school systems after the LEAP 21 Summer retest but prior to February 15 are

required to take the state selected form of The Iowa Tests for grade placement, if the student has not taken LEAP 21.

11. Students taking The Iowa Tests are not eligible for either a retest or the appeals process. These students may be eligible for the policy override based upon a decision by the School Building Level Committee (SBLC).

12. The High Stakes Testing Policy and the local Pupil Progression Plan shall govern grade placement of students transferring to the local school systems.

NOTE: A Louisiana resident transferring from any out-of-state school is defined as a student living in Louisiana but attending school in an adjacent state.

* * *

Interested persons may submit written comments until 4:30 p.m., January 9, 2003, 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: Guidelines for Nonpublic and
Home Schooling Students Transferring
to the Public School Systems**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There should be no additional implementation costs (savings) to state or local governmental units.
- 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.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
School systems personnel (public and nonpublic), students with disabilities and the general public will be affected by this policy because of better accountability and a more informed public.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There should be no affect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0211#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook For School
Administrators C Personal Financial Literacy
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and

Secondary Education in LR 1:483 (November 1975). This action is a result of recent legislation (R.S. 17:282.3) directing the Board of Elementary and Secondary Education to adopt rules and guidelines to further enhance efforts to promote financial literacy in schools. The addition of this procedural block to Bulletin 741 will encourage local school systems to integrate the teaching of personal management skills and the basic principles involved with earning, spending, saving, and investing into currently existing courses.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations
A. Bulletin 741**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

Curriculum

1.087.00 The school system shall plan and implement a continuous program of skills, concepts, and instruction in a learning environment designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his/her full potential.

The school system shall develop a character education philosophy and implementation plan consistent with its locally developed curriculum.

Any public elementary or secondary school may offer instruction in personal financial management based on the concept of achieving financial literacy through the teaching of personal management skills and the basic principles involved with earning, spending, saving, and investing. Such instruction and subject matter shall be integrated into an existing course of study.

* * *

Interested persons may submit written comments until 4:30 p.m., January 9, 2003, 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: Personal Financial Literacy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The integration of personal financial management skills and the basic principles involved with earning, spending, saving, and investing within already existing courses offered in school systems should have no direct cost. Adding these components to existing courses may enhance the content of the courses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0211#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.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 proposed

changes more clearly explain and refine the existing policy as it pertains to the appeals and waiver process and the inclusion of new schools and/or significantly reconfigured schools in the accountability system.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269, 272 (February 2002), LR 28:991, (May 2002); LR 28:1187 (June 2002), LR 29:

**The Louisiana School and District
Accountability System
School Performance Scores**

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

New schools with one year of test data shall be included in accountability. For attendance and dropout data, LEA's shall have the option of using

- the district average for schools in the same category as the new school
- data from the prior year, if whole grade levels from an existing school or schools moved to the new school.

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, 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-6]			
The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1			
<i>Indicator</i>	<i>Index Value</i>	<i>Weight</i>	<i>Indicator Score</i>
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

Criterion-Referenced Tests (CRT) Index Calculations [K-8]

A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced =	200 points
Mastery (Exceeding the Standard) =	150 points
Basic (Meeting the Standard) =	100 points
Approaching Basic (Approaching the Standard) =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School [K-8]

1. Calculate the total number of points by multiplying the number of students at each Performance level times the points for those respective performance levels, for all content areas.
2. Divide by the total number of students eligible to be tested times the number of content area tests.
3. Zero shall be the lowest CRT Index score reported for accountability calculations.

Option I students: those students failing the 8th grade LEAP 21 that have been

- retained on the 8th grade campus
- must retake all parts of the 8th grade LEAP 21

If, during spring testing, a repeating fourth grade student or Option I 8th grade student receives a score of Approaching Basic (Approaching the Standard) or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)

Transition Years [K-8]

To accommodate the phase-in of the Social Studies and Science components of the CRT for Elementary and Secondary Accountability Cycles, the State Department of Education shall use following LEAP Test components when calculating the School Performance Scores (SPS) for K-8 :

Timelines/School Years			LEAP-CRT Index Components							
Cycle	Baseline SPS Data	Growth SPS Data	Grade							
			4				8			
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies
1	1998-1999	2000-2001	✓	✓			✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓

Norm-Referenced Tests (NRT) Index Calculations [K-8]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

NRT Goals and Equivalent Standard Scores

Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *

		Grade			
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]	
Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:	
Grade 3	Index 3rd grade = $(4.167 * SS) - 679.2$ SS = $(\text{Index 3rd grade} + 679.2) / 4.167$
Grade 5	Index 5th grade = $(2.941 * SS) - 544.1$ SS = $(\text{Index 5th grade} + 544.1) / 2.941$
Grade 6	Index 6th grade = $(2.500 * SS) - 477.5$ SS = $(\text{Index 6th grade} + 477.5) / 2.500$
Grade 7	Index 7th grade = $(2.174 * SS) - 428.3$ SS = $(\text{Index 7th grade} + 428.3) / 2.174$

Formula for Calculating a School's NRT Index [K-8]
<ol style="list-style-type: none"> Calculate the index for each student, using the grade-appropriate formula relating the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.) Sum the total number of NRT Index points for all grades in the school. Divide the sum of the NRT Index points by the total number of students eligible to be tested plus the number of students not exempted. Zero shall be the lowest NRT Index score reported for School Performance Score calculations.

Attendance Index Calculations [K-8]
An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%
Attendance Index Formula		
Grades K-8 Indicator (ATT K-8) = $(16.667 * \text{ATT}) - 1483.4$		
Where ATT is the attendance percentage, the Index Formula uses 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
A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of <i>dropout</i> 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) = $100 - \text{Dropout Rate (DO)}$ (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.

Transition Years [9-12]							
To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests, the Department shall use the following indicators:							
Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03	✓	✓		✓*	✓*
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.
¹The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.

Transition Years [Combination Schools]	
Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.	
To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.	
Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Formula for Calculating an SPS – Accountability Cycle 1 (2001) for 9-12 and Combination Schools.			
During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is			
$\text{SPS} = (.60 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Adjusted Achievement Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$			
All intermediate results and the final result shall be rounded to the nearest tenth.			
The following is an example of how this calculation shall be made: $[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.$			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0
Formula for Calculating an SPS – Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.			
During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is			
$\text{SPS} = (.30 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{Grade 11 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$			
In this example, $[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.$			

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8
CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Norm-Referenced Tests (NRT) Index Calculations [9-12]		
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.		
NRT Goals and Equivalent Standard Scores for Grade 9		
Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55th	263
20-Year Goal	75th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]	
If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows:	
$\text{Index 9th grade} = (2.083 * \text{SS}) - 447.8$ $\text{SS} = (\text{Index 9th grade} + 447.8) / 2.083$	

<p>Option II students: those students failing the 8th grade LEAP 21 that have been</p> <ul style="list-style-type: none"> • retained and placed on the high school campus • must take the 9th grade NRT and • must retake only the part of the 8th grade LEAP 21 they originally failed (English language arts or mathematics). <p>If, during spring testing, a student receives a score of Approaching Basic (Approaching the Standard) or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)</p>

<p>Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:</p> <ul style="list-style-type: none"> • LEAP 21 or, • GEE 21 or, • Iowa On-Level or, • LEAP Alternate Assessment B (LAA-B) or, • LEAP Alternate Assessment (LAA)
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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
Mastery (Exceeding the Standard)	150 points
Basic (Meeting the Standard)	100 points
Approaching Basic (Approaching the Standard)	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 calculation 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 for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index.
4.	Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.
<p>The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is:</p> <p style="margin-left: 40px;">NRT Adjusted Achievement Index = Raw Achievement Index * (1-DO Gr 9 + .07)</p> <p style="margin-left: 40px;">CRT Adjusted Achievement Index (Gr 10) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07)</p>	

$$\text{CRT Adjusted Achievement Index (Gr 11)} = \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07) * (1 - \text{DO Gr 10} + .07) * (1 - \text{DO Gr 11} + .07)$$

Example 1 - Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100$.
- The number of points earned on the NRT is 5000.
- The raw achievement index is $5000/45 = 111.1$.
- The adjusted achievement index is $111.1 * (1 - .100 + .07) = 107.8$.

Example 2 - Grade 10:

- Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111$.
- The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0$.
- The adjusted achievement index is $125.0 * (1 - .100 + .07) * (1 - .111 + .07) = 116.3$.

Attendance Index Calculations for Grades 9-12
 An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%

Attendance Index Formula for Grades 9-12
 If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

$$\text{Indicator (ATT 9-12)} = (16.667 * \text{ATT}) - 1450.0$$

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7$.

Zero shall be the lowest Attendance Index score reported for accountability calculations..

Dropout Index Calculations for Grades 9-12

A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

Dropout Index Formula for Grades 9-12

$$\text{Dropout Index} = 187.5 - (12.5 * \text{dropout rate})$$

Example:
 If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3$.

Zero shall be the lowest Dropout Index score reported for accountability calculations.

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Appeals Procedures

2.006.13 An appeal/waiver procedure has been authorized by the State Board of Elementary and Secondary Education (SBESE) and shall be used to address unforeseen and aberrant factors impacting schools in Louisiana.

The Department shall review appeal/waiver requests and make recommendations to the SBESE within sixty days, beginning the last day of the appeals/waiver filing period. Within this interval, the Department shall notify LEAs of its recommendations and allow them to respond in writing. The Department's recommendations and LEA responses will be forwarded to SBESE for final disposition.

An *appeal* is generally defined as a request for the calculation or recalculation of the School Performance Score (SPS), and/or SPS baseline and Growth Target.

A *waiver* is generally defined as a temporary "withholding" of accountability decisions for no more than one accountability cycle. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in the state statute.

General Guidelines: Parent/School-Level Requests

Parents or individual schools seeking an appeal or waiver on issues relating to Louisiana's District and School Accountability System shall file their requests, regardless of the type, through the Superintendent, or appointed representative as authorized by the local governing board of education.

General Guidelines: Local Board of Education-Level Requests

The Superintendent or official representative of each local governing board of education shall complete the LDE's Appeals/Waivers Request Form and provide supporting documentation to the Division of School Standards, Accountability, and Assistance no later than 30 calendar days after the official release of the School Performance Scores in the fall of each year.

Data corrections shall be grounds for an appeal or waiver request when (a) evidence attributes data errors to the LDE and/or those contractors used for the student assessment program, and/or (b) evidence attributes errors to the LEA and corrections result in a change in Rewards or Corrective Actions status. Requests concerning either the inclusion or exclusion of special education student scores in the calculations of a school's SPS and Growth Target, except as outlined in *Bulletin 741*, shall not be considered by the LDE.

Supporting documentation for appeal/waiver requests should clearly outline those data that are erroneous. Further, computations by the local board of education's officials should provide evidence that the school's SPS is significantly affected by the data in question and that corrections impact Rewards, or Corrective Actions status. The local school system shall be responsible for supplying the LDE with information necessary for recalculating a school's SPS, per LDE instructions.

Criteria for Appeal

LEA superintendents shall notify the LDE in writing of any changes to existing school configurations, changes to Option status for Alternative schools or pair/share status during the LDE Accountability Status Verification process **prior to** the calculation of the School Performance Scores. Fall SPS calculations shall be made using the information provided to the LDE in the following instances.

1. The student population in a school significantly increases by greater than or equal to ten percent as a result of students transferring into the school from outside of the district (Ref. 2.006.14).
2. An Alternative School changes its Option status by meeting the eligibility requirements outlined in *Bulletin 741*, Section 1.006.14.
3. A school's (inclusive of those paired or shared) enrollment has significantly changed by fifty percent or more from the previous academic year as a result of redistricting by the local governing board of education (Ref. 2.006.15).

The LDE shall provide a report to SBESE of all configuration, pair/share, or Alternative Option status changes.

If an LEA does not submit changes to school status to the LDE during the Accountability Status Verification process, the LEA may petition SBESE during the Appeals timeframe, after the SPS release. LEAs may petition SBESE in instances not addressed by policy or in instances when the policy is unclear.

An LEA shall inform the LDE during the Accountability Status Verification process (Ref. 2.006.13) of schools within the district that have been closed. An appeal shall be filed by the LEA to receive monetary rewards for any eligible closed school.

Criteria for Waiver

1. The recalculated SPS baseline of a school changes by five points (+/-5) as a result of a significant change of ten percent or more in the student population because of students transferring into the school from outside of the district (Ref. 2.006.14).
2. Factors beyond the reasonable control of the local governing board of education and also beyond the reasonable control of the school exist.
3. A school lacks the statistically significant number of testing units for the CRT (80 units) and NRT (20 units) necessary to calculate the SPS and has no systematic "feeding" pattern into another school by which data could be "shared" (Ref. 2.006.15) because the school is
 - a Lab School;
 - a Type 1, 2, or 3 Charter School;
 - operated by the Department of Corrections; or
 - beyond the sovereign borders of Louisiana;
 - an SSD #1 or #2 school;
 - a SBESE school;
 - non-diploma bound school.
4. The student body of the school (Pre-K through K-2) comprises primarily Pre-K and K students (greater than fifty percent of the total student membership) and has no systematic "feeding" pattern into another school or schools by which it could be "paired" (Ref. 2.006.15). A feeding pattern is defined as the plan used by local governing boards of education to transfer students from one school to another for educational services as a result of pupil progression into higher grades.

**New Schools and/or Significantly
Reconfigured Schools**

2.006.16 For a newly formed school, the school district shall register the new school with the Louisiana Department of Education to have a site code assigned to that school. A new school shall not be created nor shall a new site code be

issued in order to prevent a school from entering the Accountability System. Before a new school is created, the Local Education Authority must work with the Louisiana Department of Education to explore ways the new school can be included in the Accountability System.

When two or more schools are created from an existing school (e.g., Grades 4-6 "split" from an existing K-6 structure, creating a K-3 school and a 4-6 school), the existing site code stays with the school that contributed most to the original SPS (as determined by the LDE), and the "new" school shall receive a new site code. New schools with one year of test data shall be included in accountability. For attendance and dropout data, LEA's will have the option of using (a) the district average for schools in the same category as the new school or (b) data from the prior year, if whole grade levels from an existing school or schools moved to the new school.

Reconfigured Schools

- A reconfigured school shall retain its rewards and/or Corrective Actions status if 50% or more of the students remain at the school;
- A reconfigured school shall transfer its rewards and/or Corrective Actions status if 50% or more of the students transfer to another school;

Interested persons may submit written comments until 4:30 p.m., January 9, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741C Louisiana Handbook
for School Administrators Policy for Louisiana's
Public Education Accountability System**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated implementation costs to state governmental units. The proposed changes more clearly explain and refine the existing policy as it pertains to the appeals and waiver process and the inclusion of new schools and/or significantly reconfigured schools in the accountability system.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Marlyn J. Langley
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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.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 proposed changes more clearly explain and refine existing policy as follows:

1. changes in the criterion-referenced test (CRT) labeling system;
2. clarification of the process for schools entering/progressing into Corrective Actions;
3. clarification of the process for offering School Choice to students enrolled in Academically Unacceptable schools;
4. inclusion of the requirement of offering state approved supplemental services to students enrolled in Corrective Actions Level II and III schools; and
5. inclusion of the reporting of subgroup performance.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269, 272 (February 2002); LR 28:991 (May 2002); LR 28:1187 (June 2002), LR 29:

* * *

**The Louisiana School and
District Accountability System
School Accountability**

2.006.02 Each school shall be expected to reach 10- and 20-Year Goals that depict minimum educational performances.

K-8 Indicators and Weighting			
Indicators and Weighting	Grades Administered	10-Year Goal	20-Year Goal
CRT (60% K-8)	Grades 4, 8	Average student score at BASIC (Meeting the Standard)	Average student score at MASTERY (Exceeding the Standard)
NRT (30% K-8)	Grades 3, 5, 6, 7	Average composite standard score corresponding to the 55th percentile rank in the tested grade level	Average composite standard score corresponding to the 75th percentile rank in the tested grade level
Attendance (10% K-6; 5% 7-8)		95% (grades K-8)	98% (grades K-8)
Dropout Rate (5% 7-8)		4% (grades 7-8)	2% (grades 7-8)

9-12 Indicators and Weighting					
Indicator	Weight Cycle		Grades Administered	10-Year Goal	20-Year Goal
	1	2			
	CRT— English/language arts and mathematics	60%			
CRT— science and social studies	--	30%	11	Average student score at BASIC (Meeting the Standard)	Average student score at MASTERY (Exceeding the Standard)
NRT		30%	9	Average composite standard score corresponding to the 55 th percentile rank in the tested grade level	Average composite standard score corresponding to the 75 th percentile rank in the tested grade level
Attendance Rate		5%		93%	96%
Dropout Rate		5%		7%	3%

School Performance Scores

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0"

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The Growth SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data.

During the fall of 2001 for K-8 schools, each school shall receive **two** School Performance Scores as follows:

- a Growth SPS will be calculated using 2001 English language arts/Math LEAP 21 test scores, 2001 Iowa test scores, and 2000 attendance and dropout data.
- a new Baseline SPS will be calculated using the average of the 1999-2000 and 2000-2001 English language arts/Math/Science/Social Studies LEAP 21 test scores, the average of the 1999-2000 and 2000-2001 Iowa test scores and the average of the 1999 and 2000 attendance and dropout data.

The Growth SPS shall be used to determine Growth Labels and to calculate rewards. The new Baseline shall be used to determine Performance Labels and to calculate the next cycle's Growth Target. The higher SPS (Growth or Baseline) shall be used to determine movement in Corrective Actions. (See Standard 2.006.09)

Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- an average of the most recent two year's test data, and
- attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two year's data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

During the summer of 1999 for K-8 schools, each school shall receive **two** School Performance Scores as follows:

- a score for regular education students, including gifted, talented, 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-6]			
The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1			
<i>Indicator</i>	<i>Index Value</i>	<i>Weight</i>	<i>Indicator Score</i>
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

Criterion-Referenced Tests (CRT) Index Calculations [K-8]	
A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced =	200 points
Mastery (Exceeding the Standard) =	150 points
Basic (Meeting the Standard) =	100 points
Approaching Basic (Approaching the Standard) =	50 points
Unsatisfactory =	0 points

- Formula for Calculating a CRT Index for a School [K-8]**
1. Calculate the total number of points by multiplying the number of students at each Performance level times the points for those respective performance levels, for all content areas.
 2. Divide by the total number of students eligible to be tested times the number of content area tests.
 3. Zero shall be the lowest CRT Index score reported for accountability calculations.

Option I students: those students failing the 8th grade LEAP 21 that have been

- retained on the 8th grade campus
- must retake all parts of the 8th Grade LEAP 21

If, during spring testing, a repeating fourth grade student or Option I 8th grade student receives a score of Approaching Basic (Approaching the Standard) or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)

Transition Years [K-8]

To accommodate the phase-in of the Social Studies and Science components of the CRT for Elementary and Secondary Accountability Cycles, the State Department of Education shall use following LEAP Test components when calculating the School Performance Scores (SPS) for K-8 :

Timelines/School Years			LEAP-CRT Index Components							
Cycle	Baseline SPS Data	Growth SPS Data	Grade							
			4				8			
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies
1	1998-1999	2000-2001	✓	✓			✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓

Norm-Referenced Tests (NRT) Index Calculations [K-8]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

NRT Goals and Equivalent Standard Scores

Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *

Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3 rd grade = (4.167 * SS) - 679.2 SS = (Index 3rd grade + 679.2)/4.167
Grade 5:	Index 5 th grade = (2.941 * SS) - 544.1 SS = (Index 5th grade + 544.1)/2.941
Grade 6:	Index 6 th grade = (2.500 * SS) - 477.5 SS = (Index 6th grade + 477.5)/2.500
Grade 7:	Index 7 th grade = (2.174*SS) - 428.3 SS= (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 the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.)
- Sum the total number of NRT Index points for all grades in the school.
- Divide the sum of the NRT Index points by the total number of students eligible to be tested plus the number of students not exempted.
Zero shall be the lowest NRT Index score reported for School Performance Score calculations.

Attendance Index Calculations [K-8]

An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%
Attendance Index Formula		
Grades K-8 Indicator (ATT K-8) = (16.667 * ATT) - 1483.4		
Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.		

Lowest Attendance Index Score

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations

A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas	
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) / 25

Lowest Dropout Index Score

Zero shall be the lowest Dropout Index score reported for accountability calculations.

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0-100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used.

Transition Years [9-12]							
To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests, the Department shall use the following indicators:							
Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03	✓	✓		✓*	✓*
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. †The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.							

Transition Years [Combination Schools]

Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.

To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.

Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Formula for Calculating an SPS– Accountability Cycle 1 (2001) for 9-12 and Combination Schools.

During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is

$$\text{SPS} = (.60 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Adjusted Achievement Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

All intermediate results and the final result shall be rounded to the nearest tenth.

The following is an example of how this calculation shall be made:

$$[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.$$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPS– Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.

During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is

$$\text{SPS} = (.30 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{Grade 11 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

In this example,

$$[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.$$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8
CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Norm-Referenced Tests (NRT) Index Calculations [9-12]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.

NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55th	263
20-Year Goal	75th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\begin{aligned} \text{Index 9th grade} &= (2.083 * \text{SS}) - 447.8 \\ \text{SS} &= (\text{Index 9th grade} + 447.8)/2.083 \end{aligned}$$

Option II students: those students failing the 8th grade LEAP 21 that have been

- retained and placed on the high school campus
- must take the 9th grade NRT and
- must retake only the part of the 8th grade LEAP 21 they originally failed (English language arts or mathematics).

If, during spring testing, a student receives a score of Approaching Basic (Approaching the Standard) or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- LEAP Alternate Assessment B (LAA-B) or,
LEAP Alternate Assessment (LAA)

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
Mastery (Exceeding the Standard)	150 points
Basic (Meeting the Standard)	100 points
Approaching Basic (Approaching the Standard)	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 calculation 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 for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index.
4. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is:

$$\begin{aligned} \text{NRT Adjusted Achievement Index} &= \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07) \\ \text{CRT Adjusted Achievement Index (Gr 10)} &= \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07) * \\ &\quad (1 - \text{DO Gr 10} + .07) \\ \text{CRT Adjusted Achievement Index (Gr 11)} &= \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07) \\ &\quad * (1 - \text{DO Gr 10} + .07) * (1 - \text{DO Gr 11} + .07) \end{aligned}$$

Example 1 - Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100$.
- The number of points earned on the NRT is 5000.
- The raw achievement index is $5000/45 = 111.1$.
- The adjusted achievement index is $111.1 * (1 - .100 + .07) = 107.8$.

Example 2 - Grade 10:

- Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111$.
- The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0$.
- The adjusted achievement index is $125.0 * (1 - .100 + .07) * (1 - .111 + .07) = 116.3$.

Attendance Index Calculations for Grades 9-12

An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals

	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%

Attendance Index Formula for Grades 9-12

If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

$$\text{Indicator (ATT 9-12)} = (16.667 * \text{ATT}) - 1450.0$$

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7$.

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations for Grades 9-12		
A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the State's goals.		
Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%
Dropout Index Formula for Grades 9-12		
Dropout Index = $187.5 - (12.5 \times \text{dropout rate})$		
Example: If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3$.		
Zero shall be the lowest Dropout Index score reported for accountability calculations.		

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Performance Labels

2.006.07 A Performance Label shall be given to a school that qualifies, in addition to the Growth Label.

The Louisiana Department of Education shall calculate two state averages. A state average shall be calculated for K-8 schools and a state average shall be calculated for 9-12, K-12 and combination schools.

Performance Labels
A school is Academically Unacceptable if it has an SPS < 45.0 points in 2003 and an SPS < 60.0 points in 2005.
Beginning 2003, any Academically Unacceptable school immediately enters Corrective Actions II.
A school that is not Academically Unacceptable but has a SPS < the State Average shall be labeled Academically Below the State Average.
A school that is not Academically Unacceptable but has a SPS < 100.0 points but > the State Average shall be labeled Academically Above the State Average.
**A school with a SPS of 100.0 - 124.9 shall be labeled a <i>School of Academic Achievement</i>
**A school with a SPS of 125.0 - 149.9 shall be labeled a <i>School of Academic Distinction</i> .
**A school with a SPS of 150.0 or above shall be labeled a <i>School of Academic Excellence</i> .
**During the first ten years, a school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth labels. (See Standard 2.006.06.) This school shall continue to meet or exceed its Growth Target to obtain a "positive" growth label, recognition, and possible rewards.

Corrective Actions

2.006.09 A school shall enter in Corrective Actions I if any of the following apply:

- It is Academically Below the applicable State Average and it did not make its Growth Target, or
- It is Academically Above the applicable State Average and has a Growth Label of *School in Decline* or *No Growth*.

A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents,

teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Actions I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Actions I and in light of recent proposed changes in federal programs. This information shall be required on an annual basis.

Requirements for Schools in Corrective Actions I
<i>I. A Revised or New School Improvement Plan</i>
All Louisiana schools were required to have a School Improvement Plan in place by May of 1998. Those schools placed in Corrective Actions I shall be required to review and either revise or rewrite completely their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:
a. a statement of the school's beliefs, vision, and mission;
b. a comprehensive needs assessment that shall include the following quantitative and qualitative data: <ul style="list-style-type: none"> • student academic performances on standardized achievement tests (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);

- demographic indicators of the community and school to include socioeconomic factors;
- school human and material resource summary, to include teacher demographic indicators and capital outlay factors;
- interviews with stakeholders: principals, teachers, students, parents;
- student and teacher focus groups;
- questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research;
- classroom observations;

c. measurable objectives and benchmarks;

d. effective research-based methods and strategies;

e. parental and community involvement activities;

f. professional development component aligned with assessed needs;

g. external technical support and assistance;

h. evaluation strategies;

i. coordination of resources and analysis of school budget (possible redirection of funds);

j. action plan with time lines and specific activities.

2. Assurance pages
Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.

3. A quarterly Monitoring of the Implementation of the School Improvement Plan
District Assistance Teams shall assist schools in Corrective Actions I in monitoring the implementation of their School Improvement Plan. All schools in Corrective Actions I shall be required to submit to the Louisiana Department of Education a quarterly report on the implementation of their school improvement plan in paper and/or electronic format.

4. An Annual Evaluation of the Level of Implementation of the School Improvement Plan
This evaluation shall be required on an annual basis. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.

A school shall enter Corrective Actions Level II if:

- It is Academically Unacceptable.

A school shall remain in Corrective Actions Level II if:
It is Academically Unacceptable, made its Growth Target, and it was in Corrective Actions II the previous cycle.

Corrective Actions Level II: All schools in Corrective Actions II are labeled Academically Unacceptable. All schools in Corrective Actions II must adhere to the requirements of schools in Corrective Actions I; however, Corrective Actions II schools must submit to the Louisiana Department of Education a *Monthly Monitoring of the Implementation of the School Improvement Plan*.

Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the State. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. 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 II schools that do not attain at least 40% of their growth in the interim year shall provide State Approved Supplemental Service within 60 days of the release of the interim SPSs.

A school shall enter Corrective Actions Level III if:
It was in Corrective Actions Level II the previous cycle, and Academically Unacceptable and it did not make its Growth Target.

Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy, Standard #2.006.11.) A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to the SBESE for approval by February.

If a Corrective Actions Level III school has not achieved at least 40% of its Growth Target at the end of the first year and SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If the SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose its State approval and all State funds.

Any reconstituted School's SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. The SBESE shall monitor the implementation of the Reconstitution Plan.

Movement in Corrective Actions

All schools that:

- Have a SPS ≥ 100.0 are exempt from Corrective Actions I, II, and III during the first ten years.
- Are not Academically Unacceptable and meet or exceed their Growth Targets shall exit Corrective Actions I.
- Have a SPS \geq the applicable State Average but < 100.0 must make some growth (0.1 pts) or enter/remain in Corrective Actions I.
- Are not Academically Unacceptable but have a SPS $<$ the applicable State Average must make their Growth Targets or enter/remain in Corrective Actions I.
- Are Academically Unacceptable shall enter in Corrective Actions Level II.
- Are Academically Unacceptable and make their Growth Targets, but remain Academically Unacceptable, shall remain in Corrective Actions II.
- Are Academically Unacceptable and did not make their Growth Targets, but remain Academically Unacceptable, shall enter Corrective Actions Level III.

Determination of Academically Unacceptable schools in 2003 shall be based on the higher of two School Performance Scores: one using an average of the 2001-02 and 2002-03 accountability data, and the other using the 2002-2003 accountability data only.

Corrective Actions Summary Chart

School Level Tasks

Level I

- 1) Utilize the State's diagnostic process or another process meeting State approval to identify needs; and
- 2) Work with District Assistance Team to develop/implement a consolidated improvement plan, including an integrated budget the process must include a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval

Level II

- 1) Continue to adhere to the requirements of Corrective Actions Level I schools;
- 2) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 3) Distinguished Educator works with principals to develop capacity for change

Level III

- 1) Continue to adhere to the requirements of Corrective Actions Level I schools;
- 2) Distinguished Educator continues to assist with improvement efforts and work with the advisory District Assistance Team and other district personnel to design that school's Reconstitution Plan or No State Approval/No State Funding.
- 3) If Reconstitution Plan is approved by the SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets.
- 4) If Reconstitution Plan is not approved, no State approval/no State funding.

District Level Tasks

Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) Reassign or remove school personnel as necessary as allowed by law; and
- 4) Ensure Academically Unacceptable schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) Continue to help schools through the use of District Assistance Teams;
- Hold public hearing and respond to Distinguished Educator's written recommendations;
- 3) Response in writing submitted to SBESE by local boards no later than 45 days subsequent to receiving the Distinguished Educator's report. Failure to respond to these recommendations will result in the school receiving unapproved status and being ineligible to receive federal subgrantee assistance funds until such response is received;
 - 4) Reassign or remove personnel as necessary as allowed by law; and
- Notify parents of their right to send their children to another public schools no later than 120 days after a school is identified for Corrective Actions II for the subsequent year (Ref. 2.006.11); and
- Offer state approved supplemental services to students in schools that do not meet 40% of their Growth Targets no later than 60 days after the release of the interim year SPS.

Level III

- 1) Continue to help schools through the use of District Assistance Teams;
- 2) Continue notifying parents of students attending Academically Unacceptable Schools to send their children to other public schools;
- 3) Design Reconstitution Plan and submit to the SBESE by February; 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 b) the district implements the Reconstitution Plan approved by the SBESE; and c) the SBESE shall grant non-school approval status; and
- 5) Continue to offer state approved supplemental services.

Reconstitution or No State Approval/Funding
 If Reconstitution Plan is approved by the SBESE, provide implementation support.
 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;

For some Academically Unacceptable Schools only, the SBESE shall assign advisory Distinguished Educators to schools; and

- 1) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level II

- 1) Assign advisory Distinguished Educator to schools; and
- 2) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level III

- 1) Assign advisory Distinguished Educator to schools for one additional year to assist in the development and design of the Reconstitution Plan;
- 2) At end of Year 1, the SBESE shall approve or disapprove Reconstitution Plans. If the SBESE approves the Reconstitution Plan, the Distinguished Educator is assigned an additional year to support and assist with monitoring the implementation of the Reconstitution Plan for schools that fail to make adequate growth;
- 3) If a school achieves the required amount of growth during its first year in Level III Corrective Action and proceeds to a second year in Level III, the Distinguished Educator will be assigned to the school for that additional year to support and assist the school in its continued improvements efforts; and
- 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Reconstitution or No State Approval/No Funding

- 1) If Reconstitution Plan is approved by the SBESE, a) monitor implementation of reconstitution plan; and b) provide additional state improvement funds; and
- 2) If Reconstitution Plan is not approved, no State approval/State funding

Reconstitution Plan

2.006.10 Districts shall develop and submit a Reconstitution Plan to the SBESE for approval for any school in Corrective Actions Level III during the first year in that level (by February). This Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student performance. The plan shall specify how and what reorganization shall occur and how/why these proposed changes shall lead to improved student performance.

If a Corrective Actions Level III school has not achieved at least 40% of its Growth Target and SBESE has approved

its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If the SBESE does not approve the Reconstitution Plan and a given school does not meet the required minimum growth, the school shall lose State approval and all State funds.

School Choice

2.006.11 Parents shall have the right to transfer their child to another public school when the school in which their child is enrolled enters Corrective Actions II. This School choice is offered the following school year.

Beginning 2003-04, no later than 120 days after a school has been identified for Corrective Actions II, an LEA shall notify parents of their School Choice options for the following school year.

Transfers shall not be made to any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

An LEA must develop a policy for student transfers (School Choice Policy) for schools in Corrective Actions II and III. An LEA shall state its capacity for offering student transfers. The SBESE shall approve or disapprove an LEA's School Choice Policy.

An LEA shall declare *Lack of Capacity* when all of the attendance zones under its jurisdiction are unable to provide school choice to eligible students (i.e., desegregation order).

An LEA shall declare *Limited Capacity* when some students in some or all of the attendance zones under its jurisdiction may be provided school choice in an attendance zone (i.e., limited seating capacity in receiving schools).

An LEA declaring *Lack or Limited Capacity* shall request a waiver from the SBESE and shall submit the following with its waiver request:

- a description of the general transfer policy or desegregation order (See State's *Guidance on LEAs' Development of School Choice Policies for Public Schools in Louisiana*. Transfer policies must include:
 - 1) a method for determining transfer capacity or evidence of lack of capacity to transfer;
 - 2) transfer options for as many eligible students as possible in the Academically Unacceptable schools in Corrective Actions II or III to other Academically Acceptable schools;
 - 3) equal educational opportunities for all students eligible to transfer, including students with disabilities and Limited English Proficiency (LEP) and in compliance with all civil rights laws pertaining to eligible students;
 - 4) a method for selecting transfer students from the entire eligible student population in cases of *Limited Capacity* (i.e., lottery);
 - 5) a method for communicating to parents the option and wherewithal of School Choice;
 - 6) a method for maintaining a file for all communication involving all interested parties in School Choice;
 - 7) A method for providing transportation for transfer students; and
 - 8) A method for transferring student records, including assessment results and their interpretations.

If the SBESE determines that an LEA has demonstrated sufficient evidence of lack of or limited capacity to transfer, then the requesting LEA must submit the following information for the SBESE's approval:

- a description of the School/District Plan for those schools having to offer School Choice that addresses the following:
 - 1) Educator Quality
 - Principal Certification/Qualifications
 - Principal Leadership and Effectiveness
 - Teacher Qualifications/Certification
 - 2) Professional Development
 - To address teacher professional learning based on student data
 - To address uncertified/inexperienced teacher professional learning if certified/experienced teachers are unavailable for placement in the school
 - 3) Alignment of Curriculum, Instruction and Assessment with State Content Standards;
 - 4) Teacher/Pupil Ratio;
 - 5) Early Intervention/Remediation Programs;
 - 6) Time on Task/Extended Learning Opportunities;
 - 7) Parental Involvement; and
 - 8) Discipline/Safety/Health Issues;
 - 9) Renovation/Capital Improvement.

If the SBESE approves an LEA's School Choice Policy, the LEA must comply with the following conditions:

- 1) The LEA must submit a quarterly status report to the SBESE regarding the implementation and progress of the district's School Choice policy.
- 2) The LEA's School Choice Policy will be reviewed, re-evaluated, and subject to amendment or revision annually, all at the discretion of the SBESE.
- 3) The LEA must formally approve (and provide to the SBESE written proof thereof) the following:
 - a. the implementation of the School Choice Policy submitted to the SBESE; and
 - b. the assurance that as a part of its approval of the School Choice Policy the Superintendent (or interim Superintendent), or his/her designee, shall be the sole decision maker with regard to the assignment, removal, or replacement of all personnel involved, directly or indirectly, in the administration and implementation of the School Choice policy including personnel in the central office and relevant schools covered by the plan.
- 4) In the event that the LEA uses preliminary data supplied by the LDE or testing contractor and determines in good faith that a school is not required by state or federal law to provide choice to students, but final School Performance Scores (as determined by the LDE) would require the school provide choice, the LEA shall provide choice (in accordance with the provisions of the approved School Choice Plan) at the end of the school year in which the final SPS are determined by the LDE.

If the SBESE fails to approve an LEA's School Choice Plan, the implicated schools will lose their School Approval status.

Progress Report

2.006.12 The SBESE shall report annually on the State's progress in reaching its 10- and 20-Year Goals. The Louisiana Department of Education shall publish individual school reports to provide information on every school's performance. The school reports shall include the following information: School Performance Scores and school progress in reaching Growth Targets. Beginning fall 2002, the LDE shall report subgroup performance to schools for the following subgroups: Poverty, Special Education, Ethnicity (White, Black, Hispanic, Asian/Pacific Islander,

American Indian/Alaskan Native), and Limited English Proficient (LEP).

* * *

Interested persons may submit written comments until 4:30 p.m., January 9, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weggie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741C Louisiana Handbook
for School Administrators C Policy for Louisiana's
Public Education Accountability System**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs (savings) to state governmental units. The proposed changes more clearly explain and refine the existing policy as it pertains to the changes in the criterion-referenced test (CRT) labeling system, the process for schools entering/progressing into Corrective Actions, the process for offering School Choice to students enrolled in Academically Unacceptable schools, the requirement of offering state approved supplemental services to students enrolled in Corrective Actions Level II and III schools, and the reporting of subgroup performance.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0211#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1965C English Language Arts Content Standards
(LAC 28:LXIII.Chapters 1-7)

Editor's Note: Bulletin 1965 has been moved to Part LXIII of Title 28 and is printed in its entirety to show the new codification.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revision of Bulletin 1965, *Louisiana English Language Arts Content Standards*, referenced in LAC 28:I.930.E, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The *Louisiana English Language Arts Content Standards* will be disseminated to local school districts following publication. Implementation of the changes to the wording in the standards and benchmarks clarify and strengthen the standards and benchmarks used to guide curriculum development. The revisions to the *Louisiana English Language Arts Content Standards* strengthen the content and add clarity to the document without affecting the integrity of the assessment instruments.

**Title 28
EDUCATION**

**Part LXIII. English Language Arts Content Standards
Chapter 1. Standard One**

§101. General Provisions

A. Standard One. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

B. Focus. As students move through the stages of reading development from emergent literacy to fluent, strategic reading, they learn to draw upon their prior experiences, their interactions with other readers and writers, their knowledge of word meaning and of other texts, their word identification strategies, and their understanding of textual features (e.g., semantic, syntactic, graphophonic). Students need to learn how to vary their approaches according to the type of text (e.g., written, spoken, or visual, including formal, informal, literary, and practical), their purpose in reading, and their own knowledge and experiences. Therefore, students should read for a variety of purposes and within a variety of contexts in order to become proficient and knowledgeable readers. Discovering various purposes and exploring and studying different kinds of texts will enable students to become lifelong readers and productive members of society and the workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§103. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-1-E1C Gaining meaning from print and building vocabulary using a full range of strategies (e.g., self-monitoring and correcting, searching, cross-checking), evidenced by reading behaviors while using phonemic awareness, phonics, sentence structure, meaning (1, 4)

2. ELA-1-E2C Using the conventions of print (e.g., left-to-right directionality, top-to-bottom, one-to-one matching, sentence framing) (1, 4)

3. ELA-1-E3C Adjusting speed of reading (e.g., appropriate pacing, intonation, expression) to suit the difficulty of materials and the purpose for reading (e.g., enjoying, learning, problem solving) (1, 4)

4. ELA-1-E4C Recognizing story elements (e.g., setting, plot, character, theme) and literary devices (e.g., simile, dialogue, personification) within a selection (1,4)

5. ELA-1-E5C Reading, comprehending, and responding to written, spoken, and visual texts in extended passages (e.g., range for fiction passages -450-1,000 words; range for nonfiction -450-850 words) (1, 3, 4)

6. ELA-1-E6C Interpreting (e.g., retelling, summarizing) texts to generate connections to real-life situations (1, 2, 4)

7. ELA-1-E7C Reading with fluency (natural sequencing of words) for various purposes (e.g., enjoying, learning, problem solving) (1, 2, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§105. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-1-M1C Using knowledge of word meaning and developing basic and technical vocabulary using various strategies (e.g., context clues, idioms, affixes, etymology, multiple-meaning words) (1, 4)

2. ELA-1-M2C Interpreting story elements (e.g., mood, tone, style)* and literary devices (e.g., flashback, metaphor, foreshadowing, symbolism)* within a selection (1, 4)

3. ELA-1-M3C Reading, comprehending, and responding to written, spoken, and visual texts in extended passages (e.g., ranging from 500-1,000 words) (1, 3, 4)

4. ELA-1-M4C Interpreting (e.g., paraphrasing, comparing, contrasting) texts with supportive explanations to generate connections to real-life situations and other texts (e.g., business, technical, scientific) (1, 2, 4, 5)

5. ELA-1-M5C Adjusting reading rate according to texts and purposes for reading (e.g., problem solving, evaluating, researching)* (1, 2, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§107. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-1-H1C Using knowledge of word meaning and extending basic and technical vocabulary, employing a variety of strategies (e.g., contexts, connotations and denotations, word derivations, relationships, inferences) (1, 4)

2. ELA-1-H2C Analyzing and evaluating the effects of complex elements and complex literary devices (e.g., irony, sarcasm, ambiguity)** on the meaning and purpose of a selection (1, 2, 4)

3. ELA-1-H3C Reading, comprehending, and responding to extended, complex, written, spoken, and visual texts (e.g., ranging from 600-1,500 words) (1, 2, 3, 4)

4. ELA-1-H4C Analyzing and evaluating complex texts with supportive explanations to generate connections to real-life situations and other texts (e.g., consumer materials, public documents) (1, 2, 4, 5)

5. ELA-1-H5C Adjusting reading rate according to texts and purposes for reading (e.g., analyzing, synthesizing, evaluating)** (1, 2, 4)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Chapter 2. Standard Two

§201. General Provisions

A. Standard Two. Students write competently for a variety of purposes and audiences.

B. Focus. Writing is a flexible, recursive process that requires an awareness of purpose and audience, an ability to draw on prior experience, and a knowledge of various approaches. To attain the necessary skills to create written text, students should engage in frequent, meaningful writing activities. As students use different strategies and modify their writing for various purposes and audiences, they become competent in communicating in real-life situations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§203. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-2-E1C Drawing, dictating and writing compositions that clearly state or imply a central idea with supporting details in a logical, sequential order (beginning, middle, end) (1, 4)

2. ELA-2-E2C Focusing on language (vocabulary), concepts, and ideas that show an awareness of the intended audience and/or purpose (e.g., classroom, real-life, workplace) in developing compositions (1, 2, 4)

3. ELA-2-E3C Creating written texts using the writing process (1, 4)

4. ELA-2-E4C Using narration, description, exposition, and persuasion to develop compositions (e.g., stories, letters, poems, logs) (1, 4)

5. ELA-2-E5C Recognizing and applying literary devices (e.g., figurative language) (1, 4)

6. ELA-2-E6C Writing as a response to texts and life experiences (e.g., journals, letters, lists) (1, 2, 4)

AUTHORITY NOTE:

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§205. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-2-M1C Writing multiparagraph compositions (150-200 words) that clearly imply a central idea with supporting details in a logical, sequential order (1, 4)

2. ELA-2-M2C Using language, concepts, and ideas that show an awareness of intended audience and/or purpose (e.g., classroom, real-life, workplace) in developing complex compositions (1, 2, 4)

3. ELA-2-M3C Identifying and applying the steps of the writing process (1, 4)

4. ELA-2-M4 Using narration, description, exposition, and persuasion to develop various modes of writing (e.g., notes, essays)* (1, 4)

5. ELA-2-M5C Identifying and applying literary devices (e.g., symbolism, dialogue)* (1, 4)

6. ELA-2-M6C Writing as a response to texts and life experiences (e.g., personal and business letters)* (1, 2, 4)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§207. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-2-H1C Writing compositions (250-300 words) that employ specific organizational elements (e.g., spatial order, order of importance, ascending/descending order, chronological order) and clearly imply a central idea with supporting details in a logical, sequential order (1, 4)

2. ELA-2-H2C Using language, concepts, and ideas that show an awareness of the intended audience and/or purpose (e.g., classroom, real-life, workplace) in developing complex compositions (1, 2, 4)

3. ELA-2-H3C Applying the steps of the writing process, emphasizing revising and editing in final drafts (1, 4)

4. ELA-2-H4C Using narration, description, exposition, and persuasion to develop various modes of writing (e.g., editorials, critical analyses)** (1, 4)

5. ELA-2-H5C Applying literary devices And various stylistic elements (e.g., diction, sentence structure, voice, tone)** (1, 4)

6. ELA-2-H6C Writing as a response to texts and life experiences (e.g., technical writing, resumes)** (1, 2, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Chapter 3. Standard Three

§301. General Provisions

A. Standard Three. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

B. Focus. Communication is dependent on the practical application of standard English to real-life situations. Students need to be able to apply the knowledge of the systems and structures of standard English in order to develop, discuss, and critique various texts. When students connect the study of grammar and language patterns to written, spoken, and visual compositions, they begin to incorporate these skills into their own working knowledge and ensure that the texts that they create are well received and understood.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§303. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-3-E1C Writing legibly, allowing margins and correct spacing between letters in a word and words in a sentence (1, 4)

2. ELA-3-E2C Demonstrating use of punctuation (e.g., comma, apostrophe, period, question mark, exclamation mark), capitalization, and abbreviations in final drafts of writing assignments (1, 4)

3. ELA-3-E3C Demonstrating standard English structure and usage by writing clear, coherent sentences (1, 4)

4. ELA-3-E4C Using knowledge of the parts of speech to make choices for writing (1, 4)

5. ELA-3-E5C Spelling accurately using strategies (e.g., letter-sound correspondence, hearing and recording sounds in sequence, spelling patterns, pronunciation) and resources (e.g., glossary, dictionary) when necessary (1, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§305. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-3-M1C Writing fluidly and legibly in cursive or printed form (1, 4)

2. ELA-3-M2C Demonstrating use of punctuation (e.g., colon, semicolon, quotation marks, dashes, parentheses), capitalization, and abbreviations (1, 4)

3. ELA-3-M3C Demonstrating standard English structure and usage by using correct and varied sentence types (e.g., compound and compound-complex) and effective personal styles (1, 4, 5)

4. ELA-3-M4C Demonstrating understanding of the parts of speech to make choices for writing (1, 4)

5. ELA-3-M5C Spelling accurately using strategies and resources (e.g., glossary, dictionary, thesaurus, spell check) when necessary (1, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§307. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-3-H1C writing fluidly and legibly in cursive or printed form (1, 4)

2. ELA-3-H2C Using the grammatical and mechanical conventions of standard English (1, 4, 5)

3. ELA-3-H3C Spelling accurately using strategies and resources (e.g., technical glossary, specialized dictionary) when necessary (1, 3, 4)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Chapter 4. Standard Four

§401. General Provisions

A. Standard Four. Students demonstrate competence in speaking and listening as tools for learning and communicating.

B. Focus. Communication is dependent on the interpersonal skills of speaking and listening and on the ability to work collaboratively with different people. Since information can be conveyed in various ways (e.g., between persons or groups, between persons and technological mechanisms, or between mechanisms), students need to understand the communication process: the concepts of sender and receiver, the ability to track communication breakdowns, recognition of verbal and nonverbal cues, and the art of follow-through. Understanding the communication

process and applying this understanding to different audiences, purposes, and contexts will enable students to achieve effective communication in real-life situations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§403. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-4-E1C Speaking intelligibly, using standard English pronunciation (1, 4)

2. ELA-4-E2C Giving and following directions/procedures (1, 4)

3. ELA-4-E3C Telling or retelling stories in sequence (1, 4)

4. ELA-4-E4C Giving rehearsed and unrehearsed presentations (1, 4)

5. ELA-4-E5C Speaking and listening for a variety of audiences (e.g., classroom, real-life, workplace) and purposes (e.g., awareness, concentration, enjoyment, information, problem solving) (1, 2, 4, 5)

6. ELA-4-E6C Listening and responding to a wide variety of media (e.g., music, TV, film, speech) (1, 3, 4, 5)

7. ELA-4-E7C Participating in a variety of roles in group discussions (e.g., active listener, contributor, discussion leader) (1, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§405. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-4-M1C Speaking intelligibly, using standard English pronunciation and diction (1, 4)

2. ELA-4-M2C Giving and following directions/procedures (1, 4)

3. ELA-4-M3C Using the features of speaking (e.g., audience analysis, message construction, delivery, interpretation of feedback) when giving rehearsed and unrehearsed presentations (1, 2, 4)

4. ELA-5-M4C Speaking and listening for a variety of audiences (e.g., classroom, real-life, workplace) and purposes (e.g., awareness, concentration, enjoyment, information, problem solving) (1, 2, 4, 5)

5. ELA-4-M5C Listening and responding to a wide variety of media* (1, 3, 4, 5)

6. ELA-4-M6C Participating in a variety of roles in group discussions (e.g., facilitator, recorder)* (1, 4, 5)

* Inclusive of K-4 examples

** inclusive of k-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§407. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-4-H1C Speaking intelligibly, using standard English pronunciation and diction (1, 4)

2. ELA-4-H2C Giving and following directions/procedures (1, 4)

3. ELA-4-H3C Using the features of speaking (e.g., audience analysis, message construction, delivery, interpretation of feedback) when giving prepared and impromptu presentations (1, 2, 4)

4. ELA-4-H4C Speaking and listening for a variety of audiences (e.g., classroom, real-life, workplace) and purposes (e.g., awareness, concentration, enjoyment, information, problem solving) (1, 2, 4, 5)

5. ELA-4-H5C Listening and responding to a wide variety of media (e.g., CD-ROM)** (1, 3, 4)

6. ELA-4-H6C Participating in a variety of roles in group discussion (e.g., mediator)** (1, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Chapter 5. Standard Five

§501. General Provisions

A. Standard Five. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

B. Focus. The information and technology age demands multifaceted approaches to accessing facts, images, and text from an array of information sources (e.g., libraries, electronic data, audio and video materials). The vast amount of available sources includes the reading and retrieval of information through the use of technology. The ability to identify topics, to gather information, and to evaluate, assemble, and interpret findings from an assortment of sources is one of the most essential real-life skills that students need in order to acquire and communicate knowledge in a rapidly changing world.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§503. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-5-E1C Recognizing and using organizational features of printed text, other media, and electronic information (e.g., parts of a text, alphabetizing, captions, legends, pull-down menus, keyword searches, icons, passwords, entry menu features) (1, 3, 4)

2. ELA-5-E2C Locating and evaluating information sources (e.g., print materials, databases, CD-ROM references, Internet information, electronic reference works, community and government data, television and radio resources, audio and visual materials) (1, 3, 4, 5)

3. ELA-5-E3C Locating, gathering, and selecting information using graphic organizers, simple outlining, note taking, and summarizing to produce texts and graphics (1, 3, 4)

4. ELA-5-E4C Using available technology to produce, revise, and publish a variety of works (e.g., book reviews, summaries, short research reports) (1, 3, 4)

5. ELA-5-E5C Giving credit for borrowed information by telling or listing sources (1, 4)

6. ELA-5-E6C Recognizing and using graphic organizers (e.g., charts/graphs, tables/schedules, diagrams/maps) (1, 2, 3, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§505. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-5-M1C Identifying and using organizational features of printed text, other media, and electronic information (e.g., microprint, CD-ROM, e-mail)* (1, 3, 4)

2. ELA-5-M2C Integrating information sources* (1, 3, 4, 5)

3. ELA-5-M3C Locating, gathering, and selecting information using formal outlining, paraphrasing, interviewing, and surveying to produce documented texts and graphics* (1, 3, 4)

4. ELA-5-M4C Using available technology to produce, revise, and publish a variety of works (e.g., documented research reports, investigative reports, annotated bibliographies)* (1, 3, 4)

5. ELA-5-M5C Citing references using various formats (e.g., endnotes, bibliography)* (1, 4)

6. ELA-5-M6C Identifying and interpreting graphic organizers (e.g., flowcharts, timelines, tree diagrams)* (1, 2, 3, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§507. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-5-H1C Evaluating and using organizational features of printed text, other media, and electronic information (e.g., citations, endnotes, bibliographic references)** (1, 3, 4)

2. ELA-5-H2C Synthesizing information sources** (1, 3, 4, 5)

3. ELA-5-H3C Accessing information and conducting research using a variety of primary and secondary sources to produce formal papers** (1, 2, 3, 4)

4. ELA-5-H4C Using available technology to produce, revise, and publish a variety of works (e.g., abstracts, analytical reports, summative research)** (1, 3, 4)

5. ELA-5-H5C Citing references using various formats (e.g., parenthetical citations, annotated bibliographies)** (1, 4)

6. ELA-5-H6C Analyzing and synthesizing graphic organizers (e.g., organizational charts, concept maps, comparative tables)** (1, 2, 3, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Chapter 6. Chapter Six

§601. General Provisions

A. Standard Six. Students read, analyze, and respond to literature as a record of life experiences.

B. Focus. Literature is a record of life experiences as set forth in various writings (e.g., history, novels, poetry, science fiction, essays, news articles, logs). The study of literary texts recognizes characteristics of enduring literature, discovers and reviews the elements of various genres, identifies diverse perspectives, and distinguishes cultural traditions. The study of literature and writers of the United States and throughout the world gives students an appreciation of other cultures in a global society. Through a comprehensive literature program, students learn to make connections between literary texts and their own lives, to develop their own perspectives, and to analyze different viewpoints toward events, circumstances, and issues in our complex society.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§603. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-6-E1C Recognizing and responding to United States and world literature that represents the experiences and traditions of diverse ethnic groups (1, 4, 5)

2. ELA-6-E2C Recognizing and responding to a variety of classic and contemporary fiction and non-fiction literature from many genres (e.g., folktales, legends, myths, biography, autobiography, poetry, short stories) (1, 4)

3. ELA-6-E3C Identifying and distinguishing key differences of various genres (1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§605. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-6-M1C Comparing/contrasting and responding to United States and world literature that represents the experiences and traditions of diverse ethnic groups (1, 4, 5)

2. ELA-6-M2C Identifying, comparing, and responding to a variety of classic and contemporary fiction and non-fiction literature from many genres (e.g., novels, drama)* (1, 2, 4, 5)

3. ELA-6-M3C Classifying and interpreting various genres according to their unique characteristics (1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§607. Benchmarks 9-12

A. As students in grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-6-H1C Analyzing, evaluating, and responding to United States and world literature that represents the experiences and traditions of diverse ethnic groups (1, 2, 4, 5)

2. ELA-6-H2C Analyzing and evaluating distinctive elements (e.g., recurrent themes, historical significance, literary techniques) of ancient, American, British, and world literature (1, 2, 4, 5)

3. ELA-6-H3C Analyzing, and synthesizing a variety of classic and contemporary fiction and non-fiction literature from many genres (e.g., epics)** (1, 2, 4, 5)

4. ELA-6-H4C Analyzing and responding to various genres as records of life experiences (1, 2, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Chapter 7. Standard Seven

§701. General Provisions

A. Standard Seven. Students apply reasoning and problem solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

B. Focus. Students use language daily to solve problems and deal with issues surrounding them. In order to respond effectively to these situations, students need to use the English Language Arts clearly, fluently, strategically, critically, technologically, and creatively. Students should use reasoning skills as they pose questions, plan, predict, investigate, hypothesize, speculate, and communicate about issues they encounter in academic subjects as well as in everyday life.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§703. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-7-E1C Using comprehension strategies (e.g., sequencing, predicting, drawing conclusions, comparing and contrasting, making inferences, determining main ideas) to interpret oral, written, and visual texts (1, 2, 4)

2. ELA-7-E2C Using basic reasoning skills, life experiences, and available information to solve problems in oral, written, and visual texts (1, 2, 4)

3. ELA-7-E3C Recognizing an author's purpose (reason for writing), and viewpoint (perspective) (1, 2, 4)

4. ELA-7-E4C Using basic reasoning skills to distinguish fact from opinion, skim and scan for facts, determine cause and effect, generate inquiry, and make connections with real-life situations (1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§705. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what students know and are able to do includes the following.

1. ELA-7-M1C Using comprehension strategies (e.g., summarizing, recognizing literary devices, paraphrasing)* to analyze oral, written, and visual texts (1, 2, 4)

2. ELA-7-M2C Using reasoning skills (e.g., categorizing, prioritizing),* life experiences, accumulated

knowledge, and relevant available information resources to solve problems in oral, written, and visual texts (1, 2, 4)

3. ELA-7-M3C Interpreting the effects of an author's purpose (reason for writing) and viewpoint (perspective) (1, 2, 4)

4. ELA-7-M4C Using inductive and deductive reasoning skills across oral, written, and visual texts* (1, 2, 4, 5)

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§707. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-7-H1C Using comprehension strategies (e.g., synthesizing, critiquing)** to evaluate oral, written, and visual texts (1, 2, 4)

2. ELA-7-H2C Using reasoning skills (e.g., analyzing evaluating),** incorporating life experiences, and using available information resources to solve problems in complex oral, written, and visual texts (1, 2, 4, 5)

3. ELA-7-H3C Analyzing and evaluating the effects of an author's life, culture, and philosophical assumptions as reflected in the author's viewpoint (perspective) (1, 2, 4, 5)

4. ELA-7-H4C Using analytical reasoning skills in a variety of complex oral, written, and visual texts** (1, 2, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Interested persons may submit written comments until 4:30 p.m., January 9, 2003, 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 1965C English Language Arts Content Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of the revisions to the Louisiana English Language Arts Content Standards will cost the state Department of Education approximately \$3810.00 for preparing and disseminating these revisions. The revisions clarify the standards and more closely align them with the national standards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no 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)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There are no effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0211#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV.703, 1103, 1705, and 2103)

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 proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

The text of this Notice of Intent may be viewed in the Emergency Rule portion of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 20, 2002, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No additional costs are anticipated to result from these changes. The revisions clarify and expand text.
- 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)
There are no estimated costs or economic benefits to directly affected persons or non-governmental groups.
- 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
0211#063

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Cosmetology Complete Revision
(LAC 46:XXXI.Chapters 1-17)

The State Board of Cosmetology, under authority of R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to repeal and adopt certain Rules with regard to licensing of cosmetologists.

The revision is necessitated by Act 907 of 2001 which revised the Louisiana Cosmetology Act.

There should be no adverse fiscal impact on the state as a result of this Rule inasmuch as the Louisiana State Board of Cosmetology operates solely on self-generated funds. Further, the proposed Rules have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXI. Cosmetologists

Chapter 1. General Provisions

§101. Definitions

A. As used in this Part, the following words shall have the meaning herein ascribed to each, unless the context clearly indicates otherwise.

Alternative Hair Design the practice of styling hair by twisting, wrapping weaving, extending, locking or braiding the hair by either the use of hands or mechanical devices or appliances. The practice of alternative hair design shall include the application of antiseptics, powders, oils, clays, lotions or tonics to the alternative hair but shall not include the application of dyes, reactive chemicals or other preparations to alter the structure or style of the natural hair.

Alternative Hair any hair which is not a person's own hair including synthetic hair, wiggery, braids, postich or any applied hair.

Client a person who receives a cosmetology, esthetics or manicuring service.

Dermis underlying or inner layer of the skin; the layer below the epidermis; the corium or true skin, including papillary layer, capillaries, tactile corpuscles, melanin (pigment), subcutaneous tissue, adipose or subcutis, arteries and lymphatics.

Epidermi the outermost layer of the skin; the outer epithelial portion of the skin including stratum corneous, stratum lucidum, stratum granulosum, stratum spinosum (prickle cell layer), stratum mucosum, and stratum germinativum.

Exfoliate or Exfoliation the process of sloughing off, removing or peeling dead skin cells of the epidermis using chemicals or devices.

Disposable an item which cannot be sanitized. All disposable items shall be discarded after a single use. The

following items shall be considered disposable: facial tissues, sponges, cloths, extraction tissue, lancets, gloves, wax strips and sticks, tissues, cotton pads and emery boards.

Natural Hair—Any hair which is a person's own which has grown on the person's body and has not been separated from the person's body.

Sanitize or Sanitization—the process of using heat, steam or chemicals to destroy microbial life, including highly resistant bacterial endospores. Sanitization shall be performed using EPA registered hospital grade disinfectant or a sterilization device which uses heat or steam in accordance with the manufacturer's instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Louisiana State Board of Cosmetology, LR 29:

Chapter 3. Schools and Students

§301. Cosmetology Course Requirements

A. Curriculum. The cosmetology curriculum shall consist of at least 1500 hours of instruction which shall include but not be limited to:

1. Scientific Concepts:
 - a. Infection Control;
 - b. OSHA Requirements;
 - c. Human Physiology;
 - d. Chemical Principles;
 - e. Hair and Scalp;
 - f. Nails;
2. Physical Services:
 - a. Shampoo;
 - b. Draping;
 - c. Rinses and Conditioners;
 - d. Scalp;
 - e. Facials;
 - f. Makeup;
 - g. Manicuring;
3. Chemical Services:
 - a. Hair Coloring;
 - b. Hair Lightening;
 - c. Chemical Waving;
 - d. Chemical Relaxing;
4. Hair Designing:
 - a. Hair Shaping;
 - b. Hair Cutting;
5. Louisiana Cosmetology Act and Rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§303. Esthetics Course Requirements

A. Curriculum. The esthetics curriculum shall consist of at least 750 hours of instruction which shall include but not be limited to:

1. Scientific Concepts:
 - A. Sanitation and Sterilization;
 - B. Human Physiology and Anatomy;
 - C. Skin Histology;
 - D. Skin Diseases and Disorders;
 - E. Nutrition;
 - F. General Chemistry;
2. Services:
 - A. Skin Analysis;

- B. Draping;
- C. Product Selections;
- D. Cleansing Procedure;
- E. Selecting and Employing Massage;
- F. Selecting and Employing Mask Therapy;
- G. Electricity and Various Electrical Apparatus;
- H. Hair Removal;
- I. Hazards to Skin;
- J. Aromatherapy;
- K. Spa;
- L. Makeup;

3. Louisiana Cosmetology Act and Rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§305. Manicuring Course Requirements

A. Curriculum. The manicuring curriculum shall consist of at least 500 hours which shall include but not be limited to the following.

1. Scientific Concepts
 - a. Basic Human Physiology
 - b. Nail Composition
 - c. Chemistry
 - d. Sanitizing and Sterilizing
2. Procedures
 - a. Supplies and Implements
 - b. Artificial and Natural Nail Technology
 - c. Manicure
 - d. Pedicure
 - e. Basic Massage
3. Application and Repair of Artificial and Natural Nails
4. Safety and Infection Control
5. Louisiana Cosmetology Act and Rules and Regulations

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§307. Instructor Course Requirements

A. Curriculum. The curriculum for cosmetology instructors, esthetics instructors and manicuring instructors shall consist of at least 500 hours and shall include but not be limited to the following.

1. Teaching Methods
 - a. Classroom Preparation
 - b. Teaching Methods
 - c. Speech
2. Effectiveness of Instruction
 - a. Purpose and Types of Tests
 - b. Selection of Appropriate Testing Methods
 - c. Validity and Reliability of Teaching Methods via Tests
3. Instructor Qualities
 - a. Proper Conduct of Instruction
 - b. Classroom Supervision and Control
4. Learning Environment
 - a. Classroom Conditions
 - b. Keeping Record
 - c. Motivation
 - d. Assessing Students' Needs

e. Utilization of Safety Procedures

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§309. Examination of Applicants

A. Eligibility. The following persons shall be eligible to take the written and practical examinations after receiving a clearance from the school last attended and a clearance from the board:

1. cosmetology students who have completed 1500 hours and 36 weeks of the cosmetology curriculum; however, cosmetology students who have completed 1000 hours of the cosmetology curriculum may take the written examination;
2. esthetics students who have completed 750 hours of the esthetics curriculum;
3. manicuring students who have completed 500 hours of the manicuring curriculum.
4. instructor students who have completed 500 hours of the instructor curriculum;
5. persons holding a cosmetology, esthetics, manicuring or instructor license issued by another state; and
6. persons holding a cosmetology, esthetics, manicuring or instructor license issued by another country who have received board approval.

B. Applications. Applications for examinations must be accompanied by a student registration certificate, a photograph of the student, and the \$25.00 initial license fee.

C. Fees. All fees contractually owed by an applicant to a cosmetology school from which they graduated must be paid before applying for an examination, for a certificate of registration or for a license.

D. Cancellation. Any student who fails to appear for their scheduled examination without proper notification will be required upon reapplication to submit a \$25.00 administrative fee. Proper notification shall be made by contacting the board office seven days prior to the scheduled examination or in the case of an emergency 24 hours prior to the scheduled examination.

E. Examination. Students must bring a mannequin with the head styled for comb-out to the examination. Students will be required to perform further practical work on the mannequin during the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§311. Reporting Student Hours

A. Registration. Schools shall register students with the board within 60 days after the students start school. The maximum number of hours which will be accepted by the board at the time of registration is the number of hours earned within 60 days preceding registration.

B. Hours. Schools must register each student's hours with the board in the following manner:

1. at the completion of 1,000 hours (2/3 of curriculum) and completion of the curriculum for cosmetology students;
2. at the completion of the curriculum for esthetics students;
3. at the completion of the curriculum for manicuring students; and

4. at the completion of the curriculum for instructor students.

C. Attendance. School owners must certify the student's attendance for hours reported to the board. No overtime or double time shall be permitted. Only hours devoted to the prescribed curriculum shall be included. Students shall not earn more than 48 hours of training in any calendar week.

D. Reports. The hour report submitted by the school to the board shall be signed by the senior instructor, or in the absence of the senior instructor, the report shall be signed by the person in charge, who shall designate his capacity as acting senior instructor. The report shall include a list of the current instructors.

E. Dropped Students. Schools are required to provide to the board the names of the students who drop from their rolls within 30 days and to provide the number of hours earned during the student's attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598.

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§313. Transfer Students

A. Out-of-State. The board will accept student hours certified by an out-of-state school provided that the hours are transferred to a Louisiana school. The Louisiana school shall evaluate the student's transcript and determine how many hours of the curriculum have been completed by the student. The school shall submit to the board a verification of the number of transferable hours which shall include supporting data, a certificate from the out-of-state school and a certificate from the state board which supervises the school.

B. In-State. When enrolling a transfer student from another school within Louisiana, the school owner must provide the board with the following:

1. student enrollment application indicating on the application that it is a re-registration;
2. certification of payment of contractual fees owed to the former school; and
3. if the student has transferred schools more than once, a re-registration fee of \$10 must accompany the application.

C. Notice of Termination. Any students transferring hours from one school to another is required to submit a Notice of Termination Form within 30 days of student's drop-out date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598(A)(4).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§315. Responsibilities of Schools

A. Enrollment. Upon enrollment of a student the school must provide the following to the board:

1. student enrollment application;
2. the student's birth certificate, birth card or driver's license;
3. proof of completion of education equal to the tenth grade;
4. a photograph of the student; and
5. the student registration fee.

B. Reports. Schools must maintain hour reports for a minimum of three years.

C. Mannequin. Schools must furnish to each student, at a nominal fee, a mannequin upon which the student may practice and may use for the practical examination.

D. Professional Department. Schools shall not have professional departments within the school, nor shall any school owner own or operate a beauty shop or salon in connection with a school. School staff members shall not practice in an adjoining beauty shop or salon, while school is in session. There shall be no unsealed connecting doors between a beauty shop or salon under the same roof.

E. Faculty. All schools must maintain a faculty of at least one instructor per every 20 students enrolled. Each faculty shall include a senior instructor who shall have at least 18 months teaching experience in an accredited school of cosmetology. The senior instructor shall supervise all other faculty members.

F. Senior Instructor. In the event that the senior instructor resigns or takes a leave of absence, the school shall advise the board monthly of their efforts to employ a new senior instructor.

G. School Closing. Any school owner which intends to close any school shall notify the board in writing as soon as practicable. Copies of documents relative to closure must be provided to the board office, including, but not limited to, teach-out plans and teach-out agreements. The board shall be the custodian of records for any school which closes.

H. Student Work. Schools shall post a legible sign not smaller than 6" x 10", at the entrance of each school reading: "Student Work Only".

I. Compensation. Schools shall not pay commissions or any other compensation, discount or fee to a cosmetology, esthetics or manicuring student for work in training done by them.

J. Registrations. All student registrations must be posted in a conspicuous place.

K. Text Books. Schools must provide a textbook to each student upon registration.

L. Library. Schools must maintain a library which shall be available to all students.

M. Hours. Schools must post a monthly summary of hours earned by each student.

N. Cosmetology Services. No employee or owner of a school shall knowingly permit students to perform any professional cosmetology work for which they do not possess a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:595.

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§317. Equipment Required in Cosmetology Schools

A. Equipment. Every cosmetology school must have a practical work room and working equipment including:

1. six shampoo bowls;
2. six hair dryers;
3. three manicuring tables;
4. cold wave equipment sufficient for six permanents;
5. sufficient trays for supplies;
6. covered waste containers sufficient to maintain sanitation in the school;
7. one wet and dry sanitizer for each occupied station;
8. six mannequins;
9. twenty working stations;
10. covered containers for soiled towels; and

11. locker space for each student.

B. Classroom. Every cosmetology school must have a classroom with a minimum of 400 square feet, entirely separate from the practical work room, equipped with the following:

1. modern anatomy charts;
2. marker or chalk board, minimum 4 feet by 6 feet; and
3. sufficient seating with facilities for classroom work, such as taking notes.

C. Use of Rooms. The area designated for classrooms or practical work rooms shall not be used for any other purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:595(A)(1).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§319. Field Trips; Seminars; Workshops; Shows and Community Service

A. Schools are permitted but not required to offer to their students an opportunity to earn credit hours for cosmetology related field trips, seminars, workshops, shows and community service as follows:

1. up to 40 hours for cosmetology students;
2. up to 15 hours for manicuring students;
3. up to 20 hours for esthetics students; and
4. up to 20 hours for instructor students.

B. Documentation. In order for students to receive credit for cosmetology related field trips, seminars, workshops, shows or community service, the school must annotate the course outlines to reflect the maximum hours which may be earned. Example: Cosmetology Course Outline-40 hours during the length of the course are assigned to cosmetology-related field trips, seminars, workshops and community service.

C. Participation. Participation in field trips, seminars, workshops, shows or community service by students is voluntary. Students who choose not to participate must be given other related assignments.

D. Monitoring. An instructor must accompany students on any field trip. Attendance shall be monitored at the beginning, midpoint and close of the function and documented by the instructor. Travel time shall not be included in the hours credited for the field trip.

E. Documentation. Schools must retain documentation of field trips, seminars, workshops, shows and community service hours.

F. Compensation. No school or student shall accept any compensation for cosmetology related field trips, seminars, workshops, shows or community service. All money collected for community service must be paid to the charity for which the function was sponsored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§321. Responsibilities of Students

A. Students. Students, shall not be allowed to perform any professional cosmetology work for which the student does not possess a license, prior to completion of the curriculum passing the examination administered by the board and receipt of an initial license. Any student found to be in violation of this rule will forfeit all hours completed in

beauty school and any school knowingly permitting a serious violation of this section shall be subject to suspension or revocation of its license.

B. Services. Students attending beauty school shall not provide cosmetology services whether for a fee or not in any licensed beauty salon or shop or in any premises which is not licensed unless the student possesses a license to perform such services. This regulation applies even though the student's immediate family or the student themselves has an ownership interest in the beauty shop salon in question, or jeopardy of the student losing a portion of or all their hours.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Louisiana State Board Cosmetology, LR 29:

Chapter 5. Licensees

§501. Booth Renters (Formerly LAC 46:XXXI.1103)

A. Agreement. A copy of the executed agreement between the salon owner and the cosmetologist shall be submitted to the board at the time of application for a booth rental permit.

B. Form. The board will furnish a contractual agreement form for a nominal fee. In the event an agreement is not on the form supplied by the board, the agreement shall contain the following information:

1. a statement indicating that both parties agree that the cosmetologist is not an employee of the salon;
2. a statement indicating the salon owner has no right to control the methodology used by the cosmetologist to produce a given result; and
3. a statement indicating the basis of the cosmetologist's compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:592.

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§503. School Licenses Issued to Legal Entities

A. School License. Any corporation, association, partnership or other legal entity applying for a license to operate a school shall provide the following to the board:

1. the name and address of each place of business maintained by the entity in the state of Louisiana;
2. a financial statement;
3. the articles of incorporation, articles of organization, partnership agreement or other organizational documentation;
4. the names, addresses and percentage interest of each partner, member or stockholder, for the purpose of this subsection a landlord or lessor of equipment paid a percentage exceeding 20 percent shall be considered an owner or partner; and
5. the name and address of individual managing officer or partner.

B. Ownership change. A change of ownership of 35 percent or greater shall require submission of all information required by Subsection A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§505. Master Cosmetology Instructors

A. Gold Stamp. Any instructor who completes 16 hours of approved continuing education each year shall receive a gold stamp on his or her license.

B. Master Instructors. All instructors with a minimum of five years teaching experience and who attend 16 hours of approved continuing education each year will receive a master instructor license with an official title, MCI.

C. Reinstatements. In order to maintain the master instructor license the instructor must attend a minimum of 16 hours of approved continuing education each year. If a master instructor does not attend the 16 hours during one year, the master instructor license will be reinstated after two consecutive years of completing 16 hours of approved continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

Chapter 7. Safety and Sanitation Requirements

§701. Sanitation Requirements for Cosmetology

Salons and Cosmetology Schools

A. Sanitation. Beauty shops, salons and cosmetology schools are declared to be businesses affecting the public health, safety and welfare; therefore, sanitation procedures must be followed. Every beauty shop, salon and cosmetology school shall be adequately lighted, well ventilated, and kept in a clean and sanitary condition at all times.

B. Equipment. All beauty shops and salons and cosmetology schools shall have available sterilizers or sanitizers which shall be used in accordance with the manufacturer's instructions. All instruments, including disposable equipment shall be kept clean and sanitized.

C. Combs and Brushes. Combs and brushes must be thoroughly cleaned with soap and water after each patron has been served and then immersed in a solution of one part water to 10 parts of sodium hypochlorite (bleach), EPA hospital grade disinfectant or some equally efficient disinfectant used in accordance with the manufacturer's instructions.

D. Shampoo Boards. Shampoo boards and bowls must be kept clean at all times.

E. Towels. Towels used for patrons shall be clean and freshly laundered and kept in a closed cabinet designated for clean towels only.

F. Soiled Towels. Soiled towels should be kept in a container.

G. Hand Washing. Cosmetologists shall wash their hands with soap and fresh water immediately before serving each patron.

H. Fluids and Powders. Fluids and powders shall be applied to a patron from a shaker type dispenser so as to prevent the bottle or shaker from contacting the client.

I. Structure. Floor, walls and fixtures must be kept in a clean and sanitary condition at all times.

J. Flooring. Carpet or floor cloth shall not be used in any work area.

K. Animals. No facility licensed by the board shall permit any live animal to be present on the premises except for an animal certified to assist a disabled person.

L. Water. All facilities shall have an adequate supply of both hot and cold running water and a sufficient number of wash basins on the facility premises.

M. Clippings. Hair clippings on the floor must be swept up after each client and shall be disposed of in a covered container.

N. Tools and Implements. All tools and implements which come in direct contact with a client and shall be sterilized, sanitized or disposed of after each use.

O. Storage. New and/or sanitized and cleaned tools and implements shall be stored separately from all others.

P. Work Stations. Storage cabinets, work stations and vanities shall be cleaned after each client.

Q. Blood Spill Kits. Blood spill kits must be available in every salon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§703. Salons Located in Buildings Housing Other Facilities

A. Separate Room. No salon shall be established or maintained in a home or in connection with a business where food is handled unless a separate room is provided therefore.

B. Home Salon. Any salon in a home or in connection with a place where food is handled shall be separated from the living quarters or place where food is handled by walls or other permanent structures. There shall be separate outside entrances leading to the salon and to the living quarters or any place where food is handled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9)

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§705. Equipment Required in Salons Offering Hair Dressing Services

A. Equipment. Hair dressing shall not be performed in any beauty shop or salon unless the following items are available for use:

1. shampoo bowl for shop purpose only;
2. utility chair;
3. dryer;
4. covered waste container;
5. cabinet for accessories;
6. cabinet for clean linens;
7. container for soiled linens; and
8. wet and dry sterilizer for each occupied station or electric sterilizer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§707. Equipment Required in Salons Offering Esthetics Services

A. Equipment. Esthetics shall not be performed in any salon unless the following items are available for use:

1. flexible treatment bed or chair, capable of multi-positions for customer and skin care therapist;
2. stool for therapist;
3. trolleys or utility table, large enough to support cosmetic preparations and bowls;
4. small sterilizer for implements (i.e., tweezers, extractors, small equipment);

5. magnifying lamp for skin analysis (five dioptic recommended);

6. closed storage cabinet with a wash basin or sink for hand washing and towel storage;

7. facial steamer;

8. the following basic implements:

- a. two stainless steel bowls;
- b. covered waste bin;
- c. non-sterile cotton pads, cloths, or disposable sponges;
- d. towels, clinic gowns, head bands, washable blanket;
- e. tissue, cotton tipped swabs, spatulas, gauze;
- f. containers with lids for storage or disposable items;
- g. tweezers;
- h. sheets;
- i. mask brushes;
- j. cleansers, astringents, treatment creams; and
- k. lancets, leak and puncture proof container for disposal of lancets, and gloves (disposable PVC).

B. Waxing. If waxing is offered, the following items shall be available for use:

1. wax pot and wax;
2. disposable applicators;
3. wax remover for skin and ointment;
4. cleanser for skin;
5. wax equipment cleanser; and
6. comb and scissors for trimming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§709. Equipment Required in Salons Offering Manicuring Services

A. Manicuring Equipment. Manicuring shall not be performed in any salon unless the following items are available for use:

1. manicuring sterilizer;
2. covered waste containers;
3. cabinet for accessories;
4. cabinet for clean linens;
5. container for soiled linens;
6. manicuring table; and
7. lavatory with hot and cold running water.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§711. Procedures for Esthetics Services

A. Exfoliation. Cosmetologists, estheticians and persons authorized to perform microdermabrasion shall not exfoliate or perform any procedure which will affect the dermis or skin below the epidermis. Cosmetologists, estheticians and persons authorized to perform microdermabrasion shall only exfoliate or perform services which affect the epidermis.

B. Procedures. Cosmetologists performing esthetics services, estheticians and persons authorized to perform microdermabrasion shall:

1. wash his or her hands using an antimicrobial skin wash prior to coming into contact with any client;
2. wash all implements with antimicrobial wash prior to sanitization or sterilization;

3. wash all towels and linens in disinfecting detergent; and
4. place all used disposable items in a closed, bagged, trash container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§713. Procedures for Manicuring Services

A. All manicurists and cosmetologist performing manicuring services shall:

1. wash his or her hands using antimicrobial wash prior to performing any manicuring service;
2. require the customer to wash area on which service is to be performed with an antimicrobial wash prior to any service being performed;
3. wash all implements with antimicrobial wash prior to sterilization;
4. wash all towels and linens in disinfecting detergent; and
5. place all used disposable items in a closed, bagged, trash container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§715. Disposable Equipment

A. The following items shall be considered disposable:

1. facial tissues;
2. sponges;
3. cloths;
4. extraction tissue;
5. lancets;
6. gloves;
7. wax strips and sticks;
8. tissues;
9. cotton pads; and
10. emery boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

Chapter 9. Inspections

§901. Access of Inspectors

A. Access. Inspectors and employees of the board are entitled to enter any premises licensed by the board, to interview any person present at the facility and to examine all work records pertaining to the cosmetology profession during the regular business hours of the facility.

B. Information. Any information gained by an inspector or employee of the board during an inspection shall remain confidential unless the information is to be offered as evidence in an administrative hearing or court proceeding concerning a license issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(10).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§903. Violations

A. Citations. Inspectors may issue citations for violations and impose and collect fines for any violation of the Cosmetology Act or any rule or regulation adopted by the board provided that the licensee waives his or her right to a formal hearing before the board.

B. Violation Notice. Inspectors must present the licensee with the a duplicate copy of the violation notice.

C. Evidence. Any licensee who disputes the contents of an inspector's report may submit contrary evidence in writing to the board or present evidence to the board at the assigned hearing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(5)

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

Chapter 11. Special and Temporary Permits

§1101. Special Permits

A. Special Permits. The board shall issue the following special permits to any person who meets the requirements set forth in the board's rules:

1. alternative hair design;
2. microdermabrasion;
3. shampoo assistants; and
4. make-up artists.

B. All special permits issued by the board shall be valid for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1103. Special Permit for Microdermabrasion

A. Microdermabrasion. Beginning April 1, 2003 a special permit authorizing the performance of microdermabrasion using a nonprescriptive device shall be issued to:

1. a licensed esthetician; or
2. a licensed cosmetologist or electrologist who presents satisfactory evidence of completion of at least 200 hours of study in esthetics or evidence of practicing esthetics for a period of at least one year.

B. Training. In addition to the requirements set forth in Subsection A, the applicant must present satisfactory evidence of completion of a training course on the operation of the microdermabrasion equipment to be used.

C. Proof Required. For the purpose of this Section, evidence of practicing esthetics shall be demonstrated by presenting the following:

1. copies of W-2's or 1099s and a sworn statement by the issuer indicating that the individual worked the equivalent of 25 per week for at least 48 weeks during a period of one year; or
2. copies of income tax returns, if self-employed, and sworn statements from at least five clients indicating that esthetics services were performed by the applicant.

D. Permit Required. No cosmetologist or esthetician may perform microdermabrasion without a current special permit authorizing the performance of microdermabrasion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1105. Special Permit for Alternative Hair Design

A. Alternative Hair Design. Beginning April 1, 2003, a special permit authorizing the practice of alternative hair design shall be issued to any person who presents evidence to the board of completion of the alternative hair design curriculum and successfully passes the exam administered by the board.

B. Grandfathering. Notwithstanding the provisions of Subsection A, any person who applies for a special permit to practice alternative hair design on or before June 30, 2003 who satisfactorily demonstrates two years of experience in the practice of alternative hair design shall be issued a permit without the necessity of taking the alternative hair exam.

C. For the purpose of this Section experience shall be demonstrated by any of the following:

1. copies of W-2's or 1099's and a sworn statement by the issuer indicating that the individual worked the equivalent of 25 per week for at least 48 weeks per year during a two year period in the practice of alternative hair design;

2. copies of income tax returns, if self-employed, and sworn statements from at least five clients indicating that alternative hair design services were performed by the applicant;

3. certification from a school indicating that the applicant has received at least 400 hours of instruction in alternative hair design which were completed prior to October 1, 2002; or

4. documentation indicating that the applicant has been a member of a trade association which has as its stated purpose the education of individuals in a field which includes alternative hair design for at least two years prior to January 1, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1107. Alternative Hair Design Curriculum

A. Curriculum. The alternative hair design curriculum shall consist of at least 1000 hours of instruction which shall include but not be limited to:

1. History Overview:
 - a. Ancient Origins of Braiding;
 - b. Traditional Multi-Cultural Braid Styles;
 - c. The Multi-Cultural American Hair Experience;
2. Bacteriology and Sanitation:
 - a. Types of Bacteria;
 - b. Growth and Reproduction of Bacteria;
 - c. Prevention of Infection and Infection Control;
 - d. Use of Antiseptics, Disinfectants and Detergents;
3. Client Consultation;
4. Hair Types and Hair Structure;
5. Scalp Diseases and Disorders;
6. Shampoos, Conditioners, Herbal Treatments and Rinses for Synthetic Hair Only;
7. Braiding and Sculpting;
8. Louisiana Cosmetology Act and Rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1109. Special Permit for Shampoo Assistants

A. Shampoo Assistants. Beginning January 1, 2003, a special permit authorizing the performance of shampooing shall be issued to any person who:

1. applies on or before June 30, 2003 and presents evidence to the board of six months of continuous

employment as an assistant to a licensed cosmetologist prior to January 1, 2003; or

2. has successfully completed at least 40 hours of training in shampooing, draping and rinsing and passed the test administered by the board.

B. Grandfathering. For the purpose of this Section continuous employment shall be demonstrated by copies of W-2s or 1099s and a sworn statement by the issuer indicating that the individual worked the equivalent of 25 per week for at least 24-weeks per year during a 6-month period as a shampoo assistant under the supervision of a licensed cosmetologist.

C. Cosmetologist. No person holding current cosmetology license shall be required to obtain a special permit to shampoo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1111. Special Permit for Make-Up Application

A. Make-Up Application. Beginning April 1, 2003, a special permit authorizing the practice of application of cosmetic preparations or make-up shall be issued to any person who presents evidence to the board of completion of 40 hours of training in the application of cosmetic preparations or make-up.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1113. Temporary Permits

A. Permits. The board shall issue permits to persons who wish to participate in hair shows, beauty pageants or demonstrations who are licensed to practice cosmetology, esthetics or manicuring in another state.

B. Applications. Applications for temporary permits shall be submitted to the board for review not less than 30 days prior to the requested period of the permit.

C. The 40-hour curriculum for make-up artists shall include a minimum of:

1. two hours of study if composition of facial cosmetics;
2. two hours of study and two hours of practical work in recognition of facial shapes;
3. two hours of study make-up cosmetics and purpose;
4. three hours of study and 12 hours of practical work in make-up application;
5. three hours of study and 10 hours of practical work in procedure for corrective make-up;
6. one hour of study and two hours of practical work in procedure for evening make-up;
7. one hour of study in safety and sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1115. Temporary Permits

A. Transfer. Hours of study used to obtain any temporary permit authorized by this Chapter shall not be counted toward the number of hours necessary to receive any other license issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

Chapter 13. Disciplinary Proceedings

§1301. Informal Proceedings

A. Notice. If the board receives information indicating that a licensee has violated the Cosmetology Practice Act or the rules and regulations adopted by the board, the executive director shall provide the licensee with a written informal notice.

B. Conference. The licensee shall respond in writing to the board's informal notice within 10 days of receipt by providing the board with a written statement containing any information related to the allegations of the informal notice which would show compliance with all requirements for retention of his or her license. In lieu of providing a written statement, the licensee may request an informal conference with the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1303. Formal Proceedings

A. Complaint. In the event that the matter is not resolved during the informal hearing, the executive director shall file a formal complaint which shall be forwarded to the licensee at the address on file with the board.

B. Hearing. No hearing shall be conducted prior to 20 business days following the filing of the formal complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1305. Procedures

A. Hearings. All hearings conducted before the board shall be in accordance with the Administrative Procedure Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

Chapter 15. Declaratory Orders

§1501. Declaratory Orders

A. Application. Any person desiring an interpretation of the Cosmetology Act or the rules promulgated in accordance with the Cosmetology Act shall make application to the board on a form provided by the board.

B. Hearing. An application for a Declaratory Order shall be heard within 60 days of receipt.

C. Ruling. The board shall issue a ruling on an application for Declaratory Order within 30 days of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

Chapter 17. Miscellaneous Provisions

§1701. Public Comments at Board Meetings

A. Comments. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the chairman or the executive director no later than the beginning of the meeting. To assure that an opportunity is afforded all persons who desire to make public comments, the chairman shall inquire at the beginning of the meeting if

there are additional persons who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment, limiting each person to a maximum of three minutes, with the total comment period not to exceed 30 minutes. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1703. Services Performed at the Residence of a Disabled Person

A. Services. A cosmetologist, esthetician or manicurist may perform services at the residence of a client who is chronically ill or disabled.

B. Requirements. A client shall be considered chronically ill or disabled if:

1. the client provides the cosmetologist, esthetician or manicurist with a physician's certificate indicating that the client is chronically ill or disabled;

2. the client provides the cosmetologist, esthetician or manicurist with evidence that the client has been awarded Social Security Disability or Supplemental Security Income Disability Benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(15).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1705. Destruction of Premises

A. Inspection. When any school or salon made unusable by virtue of storm, fire, flood or any other act of God or by virtue of expropriation proceedings and the premises selected to permanently replace such facility will be inspected without an inspection fee, provided that such facility is replaced within six months of its destruction.

B. Reconstruction. Any school or salon which is repaired or replaced in its exact location will be acceptable provided that it is reconstructed in no less size that existed prior to its destruction.

C. Temporary Premises. When temporary premises are necessary for the continuance of operation during the repair, the board member for the area involved may approve such premises provided such premises are temporary with a specific termination date set forth for their use and further provided that such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1707. Remodeling

A. Application. When any school or salon desires to remodel its premises, application shall be made to the board.

B. Temporary Premises. If remodeling requires the use of temporary premises for the continuance of operation during remodeling, the board member for the area may approve such premises as are adequate provided such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1709. Picture Identification

A. All licensee and permittees shall have in their possession a picture identification at any time at which a service is being performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1711. NSF Checks

A. Late Fee. If a check is received for the renewal of license which is returned to the board by the bank due to non-sufficient funds and is not validated by the licensee or permittee by the expiration date will be responsible for payment of a late fee in addition to any bank charge imposed on the board.

B. Restoration. If a check is received for restoration of a license which is returned to the board by the bank due to non-sufficient funds, the applicant's license shall be subject to revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

§1713. Cheating on Examinations

A. Eligibility. Any person who cheats on an examination administered by the board shall be disqualified from taking any examination administered by the board for a period of at least three months. Any person who cheats on a subsequent examination shall be ineligible to register for any examination administered by the board without board approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Division of Administration, Board of Cosmetology, LR 29:

Interested parties are invited to submit written comments on the proposed regulations through December 10, 2002 at 4:30 p.m., to Saraphia T. Wilson, Executive Director, Louisiana State Board of Cosmetology, 1162 Sunbelt Court, Baton Rouge, LA, 70809.

Saraphia T. Wilson
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Cosmetology Complete Revision

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The agency anticipates that it will incur additional costs associated with programming changes, printing, postage, office supplies and exams prior to issuing the special permits for alternative hair design, microdermabrasion, shampoo assistant and make-up artists. In addition, there will be costs associated with an temporary permits which are issued. However, the agency does not have sufficient data available to estimate the number of individuals who will apply for special permits or temporary permits.

Although the changes to the existing rules will result in increased costs to the agency, these increases are expected to be offset by additional revenues.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of the new rules has no effect on the revenues for existing functions in comparison to current practice.

The agency anticipates an increase in revenues in comparison to the existing rules due to the fees for the special permits for alternative hair design, microdermabrasion, shampoo assistants and make-up artists. Revenues will also increase with the issuance of temporary permits. The agency does not have sufficient data available to estimate the number of individuals who will apply for special permits or temporary permits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Although the changes to the existing rules will result in varying increases and decreases in costs, no significant change is anticipated. For example, equipment required in schools and cosmetology facilities in the proposed rules is more updated than equipment listed in the current rules.

There is a \$25 permit fee to any applicant applying for a permit for shampoo assistant, microdermabrasion, make-up application and alternative hair design; however, this fee will enable the individuals to enter the workforce in areas which previously required a cosmetology or esthetics license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Temporary permits and the special permits for alternative hair design, microdermabrasion, shampoo assistants, and make-up artists will have a positive effect on the competition and employment in the cosmetology industry. The permittees will be able to work in cosmetology facilities without obtaining a full cosmetology license. Additionally, expanded services will be offered by cosmetologists.

Saraphia T. Wilson
Executive Director
0211#057

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

EPO Plan of Benefits Accumulation of Deductibles,
Co-Insurance, and Out-of-Pocket Expenses
(LAC 32:V.301, 323, 601, 701 and 703)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO plan document relative to the accumulation of deductibles, co-insurance and out-of-pocket expenses. The reason for this action is to align the accumulation of deductibles, co-insurance, and out-of-pocket expenses with the plan year (July 1- June 30) rather than the calendar year (January 1-December 31).

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply when Eligible Expenses are Incurred by a Covered Person

A. - A.23. ...

24. not subject to the annual deductible:

a. one pap test for cervical cancer per *plan year*

b.i. ...

ii. one mammogram during a period of two years for any person who is 40-49 years of age, or more frequently if recommended by a physician;

iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1810 (October 1999), LR 28:478 (March 2002), LR 29:

Chapter 6. Definitions

§601. Definitions

Accidental InjuryCa condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

Benefit PaymentCpayment of eligible expenses incurred by a *covered person* during a *plan year* at the rate shown under percentage payable in the schedule of benefits.

DeductibleCthe amount of covered charges for which no benefits will be paid. Before benefits can be paid in a *plan year*, a *covered person* must meet the deductible shown in the schedule of benefits.

Family Unit LimitCthe dollar amount shown in the schedule of benefits has been incurred by three members of a family unit toward their *plan year deductibles*. The *deductibles* of all additional members of that family unit will be considered satisfied for that year.

Plan YearCthat period commencing at 12:01 a.m., July 1, standard time, at the address of the *employee*, or the date the *covered person* first becomes covered under the *plan* and continuing until 12:01 a.m., standard time, at the address of the *employee* on the next following July 1. Each successive *plan year* will be the period from 12:01 a.m., July 1, standard time, at the address of the *employee* to 12:01 a.m., the next following July 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1820 (October 1999), LR 29:

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.

	Non-EPO	EPO
Lifetime Maximum for all benefits except outpatient prescription drug benefits per person	\$2,000,000	
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person	\$250,000	

1. Deductibles:

	Non-EPO	EPO
Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO hospitals)	\$50	0
Emergency room charges for each visit unless the <i>covered person</i> is hospitalized immediately following emergency room treatment (prior to and in addition to <i>plan year deductible</i>)	\$150	0
Professional and other eligible expenses, employees and dependents of employees, per person, per plan year		
Family unit maximum (3 individual deductibles)		
Professional and other eligible expenses, retirees and dependents of retirees, per person, per plan year		
Family unit maximum (3 individual deductibles)		
Professional and other eligible expenses, other than physician office visits, per person, per plan year	\$300	0
Family unit maximum (3 individual deductibles)		

2. Percentage Payable after Co-payments and Satisfaction of Applicable Deductibles

Eligible expenses incurred at an EPO	n/a	100%
Eligible expenses incurred at a non-EPO	70%	n/a
Eligible expenses incurred when Medicare or other Group Health Plan is primary, and after Medicare reduction	80%	n/a
Eligible expenses incurred at a non-PPO/non-EPO When not available at an EPO/PPO or out of state	80%	n/a
Eligible expenses in excess of \$10,000* per person per plan year	100%	n/a
Eligible expenses at EPO are based upon contracted rates.		
Eligible expenses at non-EPO are based upon the OGB's fee schedule. Charges in excess of the fee schedule are not eligible expenses and do not apply to the coinsurance threshold.		

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
Out-of-pocket threshold	\$1,200 per person, per <i>plan year</i>
Co-Pay after Threshold is Reached	
Brand	\$15
Plan pays balance of eligible expense	

B. - E ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717 (May 2001), LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 29:

§703. Mental Health and Substance Abuse

NOTE: Requires prior approval of services.

A. Deductibles

Per person per Plan Year (Separate from Comprehensive Medical Benefits deductible)	\$ 200
Inpatient (Maximum 5 days; \$250 per stay)	\$ 50 per day

B. Benefits

80% of the first \$5,000 of eligible expenses
100 % of eligible expenses over \$5,000 until the Lifetime Maximum for all plan benefits is reached
Up to a maximum of 45 inpatient days per person, per plan year
Up to a maximum of 52 intensive outpatient visits per person, per plan year, inclusive of the outpatient program

NOTE: Two days of partial hospitalization or two days of residential treatment center hospitalization may be traded for each inpatient day of treatment that is available under the 45-day Plan Year maximum for inpatient treatment. A residential treatment center is a 24-hour mental health or substance abuse, non-acute care treatment setting for active treatment interventions directed at the amelioration of the specific impairments that led to admission. Partial hospitalization is a level of care where the patient remains in the hospital less than 24 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1824 (October 1999), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy .

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: EPO Plan of Benefits Accumulation of Deductibles, Co-Insurance, and Out-of-Pocket Expenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will cost the Office of

Group Benefits approximately \$1.4 million (includes \$3000 for the cost of printing). This will be a one-time cost that will be recognized during the period of January 1, 2003 through June 30, 2003 when deductibles applied during calendar year 2002 will be continued.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected. This Rule change is being published to bring the plan year of OGB in alignment with the fiscal year of the state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule will allow align the current OGB EPO plan year with the state of Louisiana fiscal year. This Rule will allow the deductible for each member that has accrued during calendar year 2002 to be carried forward to the period of January 1, 2003 through June 30, 2003. This will cause benefits to be paid during the first 6 months of 2003 that might have otherwise been applied to a plan deductible. This will be a one-time cost for OGB. As the annual enrollment transfers are effective on July 1st each year, this Rule will allow the transfer of health plans and those plan years to be the same. This carryover will apply to normal medical deductibles, mental health and substance abuse deductibles, as well as the out of pocket maximum accumulators for prescription drugs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

A. Kip Wall
Chief Executive Officer
0211#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

EPO Plan of Benefits Effective Dates and Limitations of Coverage for Pre -Existing Conditions (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. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO plan document relative to effective dates of coverage and the application of pre-existing condition limitations. This action is to conform the plan to requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated pursuant thereto.

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective upon promulgation.

Title 32
EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO)C Plan of Benefits
Chapter 1. Eligibility

§101. Persons to be Covered

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

A. - A.3. ...

4. Re-enrollment, Previous Employment

a. An employee whose employment terminated while covered, who is re-employed within 12 months of the date of termination will be considered a re-enrollment, previous employment applicant. A re-enrollment previous employment applicant will be eligible for only that classification of coverage (employee, employee and one dependent, family) in force on the effective date of termination.

b. If an employee acquires an additional dependent during the period of termination, that dependent may be covered if added within 30 days of re-employment.

5. Members of Boards and Commissions. Except as otherwise provided by law, members of boards or commissions are not eligible for participation in the plan. This Section does not apply to members of school boards or members of state boards or commissions who are defined by the participant employer as full time employees.

6. Legislative Assistants. Legislative assistants are eligible to participate in the plan if they are declared to be full-time employees by the participant employer and have at least one year of experience or receive at least 80 percent of their total compensation as legislative assistants.

7. 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 employees 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 months immediately prior to the enrollment date. 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. ...

C. Dependent Coverage

1. Eligibility. A dependent of an eligible employee or retiree will be eligible for dependent coverage on the later of the following dates:

- a. the date the employee becomes eligible;
- b. the date the retiree becomes eligible;
- c. the date the covered employee or covered retiree acquires a dependent.

2. Effective Dates of Coverage

a. Dependents of Employees. Coverage for dependents will be effective on the date the employee becomes eligible for dependent coverage.

b. Dependents of Retirees. Coverage for dependents of retirees will be effective on the first day of the month following the date of retirement if the employee and his dependents were covered immediately prior to retirement. Coverage for dependents of retirees first becoming eligible for dependent coverage following the date of retirement will be effective on the date of marriage for new spouses, the date of birth for newborn children, or the date acquired for other classifications of dependents, if application is made within 30 days of the date of eligibility.

D. - D.2. ...

3. 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 enrollment date. The provisions of this Section do not apply to pregnancy

D.4 - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1804 (October 1999), LR 27:718 (May 2001), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Groups Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: EPO Plan of BenefitsC Effective Dates
and Limitations of Coverage for Pre-Existing Conditions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will not have any material

affect on the Office of Group Benefits for fiscal year 2002/2003 and for any future years. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected. These Rule changes are being published to simplify the administrative procedures of the program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule repeals the employee and dependent deferral rule. These provisions have provided that the effective date of coverage would be deferred if the employee was not at work or a dependent was hospital confined on the date that coverage would otherwise have gone into effect. As such, these provisions violate prohibitions in the Health Insurance Portability and Accountability Act (HIPAA) non-discrimination regulations. The implementation of this Rule will conform the OGB plan to federal requirements of HIPAA.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

A. Kip Wall
Chief Executive Officer
0211#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

**EPO Plan of Benefits C Prescription Drugs
(LAC 32:V.323 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO plan document relative to prescription drugs, increasing the maximum coinsurance amount from \$40 to \$50 per prescription and increasing the out of pocket threshold from \$1,000 to \$1,200. The reason for this action is to fairly distribute the increasing cost of prescription drugs benefits among the plan and those participants who utilize the benefit.

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective July 1, 2003.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§325. Prescription Drug Benefits

A. - 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 dollars per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1200 per person per Plan Year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the Plan Member has paid \$1200 of co-insurance/co-payments for eligible prescription drug expenses, the Plan Member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

C.2. - 5.b. ...

i. For a supply of 1-34 days 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.

ii. For a supply of 35-68 days the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$100 per prescription dispensed.

iii. For a supply of 69-102 days the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$150 per prescription dispensed.

6. - 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1815 (October 1999), LR 27:717, 718, 719 (May 2001), LR 27:1886 (November 2001), LR 29:

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

A. - A.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
Out-of-pocket threshold	\$1,200 per person, per <i>plan year</i>
Co-Pay after Threshold is Reached	
Brand	\$15
Generic	No co-pay
Plan pays balance of eligible expense	

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717, 719 (May 2001), LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows:

Effect on family earnings and family budget - For families participating in the OGB's EPO plan, the maximum co-payment for prescription drugs will increase from \$40 to \$50 per prescription and the out-of-pocket threshold will increase from \$1,000 to \$1,200. After the threshold is reached, the co-payment for prescription drugs is \$15 for brand drugs and \$0 for generics.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: EPO Plan of Benefits
Prescription Drugs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will reduce the state's expenses for prescription drug benefits by \$4.7 million for fiscal year 2003/2004, \$5.4 million in fiscal year 2004/2005, and \$6.2 million in fiscal year 2005/2006. Implementation of this Rule will not be effective until July 1, 2003 and is expected to offset prescription drug increases of approximately 15% for FY 04/05 and FY 05/06. It is anticipated that \$3,000 (FY 02/03) in printing costs will be incurred with the publishing of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule change will impact those EPO members that utilize the prescription drug benefit. This change will increase the co-insurance maximum from the current to \$40 per prescription to a maximum of \$50 per prescription. In addition, the out-of-pocket threshold per member will increase from \$1,000 per member to \$1,200 per member. This reduction in benefits will cause additional costs to the directly affected members. The extent of the impact will be directly proportional to the number and cost of drugs prescribed for a plan member in any give benefit year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0211#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

**EPO Plan of Benefits CRetiree Coverage
(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. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to retiree coverage, providing that retirees who return to active employment will continue to be considered as retirees for the purposes participation in OGB plans. The reason for this action is to establish consistent administration of benefits for retirees in light of recent legislation that has resulted in an increase in the number of retirees returning to active employment.

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. ...

B. Retiree Coverage

1. Eligibility

a. Retirees of participant employers are eligible for retiree coverage under this plan.

b. An employee retired from a participant employer may not be covered as an employee of another participant employer.

c. Retirees are not eligible for coverage as overdue applicants.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement, if the retiree and participant employer have agreed to make and are making the required contributions.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1804 (October 1999), LR 27:718 (May 2001), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: EPO Plan of Benefits C Retiree Coverage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will not have any material affect on the Office of Group Benefits for fiscal year 2002/2003 and for any future years. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected. These Rule changes are being published to simplify the administrative procedures of the program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule change will impact those EPO members that retire and maintain coverage with OGB, as well as those retirees that retire and do not maintain coverage with OGB. Those retirees that maintain coverage with OGB and return to work as an active state employee will now be mandated to keep their eligible coverage as a retiree with their original employing agency continuing to pay the state share of these benefits. Those members that retire who did not maintain coverage with OGB will not be allowed to join the program as an active employee in the event they are employed at a later date.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment may be affected if a retiree without coverage seeks state employment for health and life insurance benefits. This Rule change will prevent retirees that return to work from becoming eligible for insurance benefits or any other enhanced benefit package.

A. Kip Wall
Chief Executive Officer
0211#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

**EPO Plan of Benefits C Well-Adult Care Expenses
(LAC 32:V.301 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to well adult care expenses. The changes are intended to clarify existing provisions of the plan relative to benefits for well-adult care expenses.

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

**Part V. Exclusive Provider (EPO) C Plan of Benefits
Chapter 3. Medical Benefit**

§301. Medical Benefits Apply when Eligible Expenses are Incurred by a Covered Person

A. - A.23.b.ii. ...

c. well-adult care expenses not subject to the annual deductible, but limited to a maximum benefit of \$200.00:

i. age 16 until age 40 C \$200.00 during a 3-year period;

ii. age 40 until age 50 C \$200.00 during a 2-year period;

iii. age 50 and over C \$200.00 during a 1-year period;

24. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1810 (October 1999), LR 28:478 (March 2002), LR 29:

Chapter 7 - Schedule of Benefits - EPO

§701. Comprehensive Medical Benefits

A. - B. ...

C. Well Care

1. - 2. ...

3. Well Adult (No deductible C limited to a maximum benefit of \$200)

Age 16-39 - \$200 during a 3-year period	² See % payable below
Age 40-49 - during a 2-year period	² See % payable below
Age 50 and over - \$200 during a 1-year period	² See % payable below

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717 (May 2001), LR 27: 1886 (November 2001), LR 28:476 (March 2002), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy .

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Groups Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: EPO Plan of Benefits Well-Adult Care Expenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will not have any material affect on the Office of Group Benefits for fiscal year 2002/2003 and for any future years. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected. These Rule changes are being published to simplify the administrative procedures of the program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule change will impact those EPO members that utilize the wellness benefit of the program. This proposed Rule change will modify the wellness benefit to provide for a maximum \$200 benefit for each defined period rather than one physical exam per defined benefit period as follows: age 16 until age 40C\$200 during a 3-year period; age 40 until age 50C\$200 during a 2-year period; and after age 50 and overC\$200 during a 1 year period. This is a modification of the provisions of the plan document to conform to what has been the actual process of plan administration.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

A. Kip Wall
Chief Executive Officer
0211#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Group Benefits

PPO Plan of Benefits C Accumulation of Deductibles,
Co-Insurance and Out-of-Pocket Expenses
(LAC 32:III.301, 321, 601, 701 and 703)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to the accumulation of deductibles, co-insurance and out-of-pocket expenses. The reason for this action is to align the accumulation of deductibles, co-insurance, and out-of-pocket expenses with the plan year (July 1- June 30) rather than the calendar year (January 1-December 31).

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply when Eligible Expenses are Incurred by a Covered Person

A. - A.23. ...

24. not subject to the annual deductible:

a. one pap test for cervical cancer per *plan year*;

b. - b.i ...

ii. one mammogram during a period of two years for any person who is 40-49 years of age, or more frequently if recommended by a physician;

24.b.iii. - 32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1830 (October 1999), LR 28:480 (March 2002), LR 29:

§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 *plan year*, subject to the maximum amount as specified in the schedule of benefits.

A. 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1835 (October 1999), LR 27:722 (May 2001), LR 29:

Chapter 6. Definitions

§601. Definitions

Accidental InjuryCa condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

Benefit PaymentCpayment of eligible expenses incurred by a covered person during a plan year at the rate shown under percentage payable in the schedule of benefits.

DeductibleCthe amount of covered charges for which no benefits will be paid. Before benefits can be paid in a plan year, a covered person must meet the deductible shown in the schedule of benefits.

Family Unit LimitCthe dollar amount shown in the schedule of benefits has been incurred by three members of a family unit toward their plan year deductibles. The deductibles of all additional members of that family unit will be considered satisfied for that year.

Plan YearCthat period commencing at 12:01 a.m., July 1, standard time, at the address of the employee, or the date the covered person first becomes covered under the plan and continuing until 12:01 a.m., standard time, at the address of the employee on the next following July 1. Each successive plan year will be the period from 12:01 a.m., July 1, standard time, at the address of the employee to 12:01 a.m., the next following July 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1840 (October 1999), LR 29:

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

A. ...

1. Deductibles

Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO hospitals)	\$ 50
Emergency room charges for each visit unless the covered person is hospitalized immediately following emergency room treatment (prior to and in addition to plan year deductible)	\$150
Professional and other eligible expenses, employees and dependents of employees per person, per plan year	\$500 \$300
Family unit maximum (3 individual deductibles)	

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 plan year per person	100%

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
Out-of-pocket threshold	\$1,200 per person, per plan year
Co-Pay after Threshold is Reached	
Brand	\$15
Generic	No co-pay
Plan pays balance of eligible expense	

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1843 (October 1999), LR 26:488 (March 2000)), LR 27:719, 720, 722, 723 (May 2001), LR 27:1887 (November 2001), LR 29:

§703. Mental Health Substance Abuse

NOTE: Requires prior approval of services.

A. Deductibles

Per person per plan year (Separate from Comprehensive Medical Benefits deductible)	\$ 200
Inpatient (Maximum 5 days; \$250 per stay)	\$ 50 per day

B. Benefits

80% of the first \$5,000 of eligible expenses
100 % of eligible expenses over \$5,000 until the Lifetime Maximum for all Plan benefits is reached
Up to a maximum of 45 inpatient days per person, per plan year
Up to a maximum of 52 outpatient visits per person, per plan year, inclusive of the intensive outpatient program.

Note: Two days of partial hospitalization or two days of residential treatment center hospitalization may be traded for each inpatient day of treatment that is available under the 45-day plan year maximum for inpatient treatment. A residential treatment center is a 24-hour mental health or substance abuse, non-acute care treatment setting for active treatment interventions directed at the amelioration of the specific impairments that led to admission. Partial hospitalization is a level of care where the patient remains in the hospital less than 24 hours.

Expenses incurred for emergency services will only be reimbursed if, after review, the services are determined to be a life-threatening psychiatric emergency resulting in an authorized mental health or substance abuse admission within 24 hours to an inpatient, partial, or intensive outpatient level care. Non-emergent psychiatric or substance abuse problems treated in the emergency room will not be eligible for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1844 (October 1999), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy .

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: PPO Plan of Benefits Accumulation of Deductibles, Co-Insurance and Out-of Pocket Expenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will cost the Office of Group Benefits approximately \$8.3 million (includes \$3,000 for the cost of printing). This will be a one-time cost that will be recognized during the period of January 1, 2003 through June 30, 2003 when deductibles applied during calendar year 2002 will be continued.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected. This Rule change is being published to bring the plan year of OGB in alignment with the fiscal year of the state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule will allow align the current OGB PPO plan year with the State of Louisiana fiscal year. This Rule will allow the deductible for each member that has accrued during calendar year 2002 to be carried forward to the period of January 1, 2003 through June 30, 2003. This will cause benefits to be paid during the first 6 months of 2003 that might have otherwise been applied to a plan deductible. This will be a one-time cost for OGB. As the annual enrollment transfers are effective on July 1st each year, this Rule will allow the transfer of health plans and those plan years to be the same. This carryover will apply to normal medical deductibles, mental health and substance abuse deductibles, as well as the out of pocket maximum accumulators for prescription drugs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

A. Kip Wall
Chief Executive Officer
0211#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Group Benefits

PPO Plan of Benefits Effective Dates and Limitations of Coverage for Pre -Existing Conditions (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. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to effective dates of coverage and the application of pre-existing condition limitations. This action is to conform the plan to requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated pursuant thereto.

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective upon promulgation.

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. -A.3. ...

4. Re-Enrollment, Previous Employment

a. An *employee* whose *employment* terminated while covered, who is re-employed within 12 months of the date of termination will be considered a re-enrollment, previous *employment* applicant. A re-enrollment previous *employment* applicant will be eligible for only that classification of coverage (*employee, employee* and one *dependent, family*) in force on the effective date of termination.

b. If an *employee* acquires an additional *dependent* during the period of termination, that *dependent* may be covered if added within 30 days of re-employment.

5. Members of Boards and Commissions. Except as otherwise provided by law, members of boards or commissions are not eligible for participation in the *plan*. This Section does not apply to members of school boards or members of state boards or commissions who are defined by the *participant employer* as full time *employees*.

6. Legislative Assistants. Legislative Assistants are eligible to participate in the *plan* if they are declared to be full-time *employees* by the *participant employer* and have at least one year of experience or receive at least 80 percent of their total compensation as Legislative Assistants.

7. Pre-Existing Condition (PEC)C New 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 employees 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 months immediately prior to the enrollment date. 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. - C. 1.c. ...

2. Effective Dates of Coverage

a. Dependents of Employees. Coverage for dependents will be effective on the date the employee becomes eligible for dependent coverage.

b. Dependents of Retirees. Coverage for dependents of retirees will be effective on the first day of the month following the date of retirement if the employee and his dependents were covered immediately prior to retirement. Coverage for dependents of retirees first becoming eligible for dependent coverage following the date of retirement will be effective on the date of marriage for new spouses, the date of birth for newborn children, or the date acquired for other classifications of dependents, if application is made within 30 days of the date of eligibility.

D. Pre-Existing Condition (PEC)C Overdue Application

1. - 2. ...

3. 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 enrollment date. The provisions of this Section do not apply to pregnancy.

E. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1825 (October 1999), LR 27:721 (May 2001), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Groups Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: PPO Plan of BenefitsC Effective Dates and Limitations of Coverage for Pre-Existing Conditions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will not have any material affect on the Office of Group Benefits for fiscal year 2002/2003 and for any future years. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected. These Rule changes are being published to simplify the administrative procedures of the program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule repeals the employee and dependent deferral rule. These provisions have provided that the effective date of coverage would be deferred if the employee was not at work or a dependent was hospital confined on the date that coverage would otherwise have gone into effect. As such, these provisions violate prohibitions in the Health Insurance Portability and Accountability Act (HIPAA) non-discrimination regulations. The implementation of this Rule will conform the OGB plan to federal requirements of HIPAA.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

A. Kip Wall
Chief Executive Officer
0211#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Group Benefits

PPO Plan of BenefitsC Prescription Drugs
(LAC 32:III.323 and 701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the

responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO plan document relative to prescription drugs, increasing the maximum coinsurance amount from \$40 to \$50 per prescription and increasing the out of pocket threshold from \$1,000 to \$1,200. The reason for this action is to fairly distribute the increasing cost of prescription drugs benefits among the plan and those participants who utilize the benefit.

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective July 1, 2003.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§323. Prescription Drug Benefits

A. - 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 dollars per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1200 per person per *plan year* out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the *plan member* has paid \$1200 of co-insurance/co-payments for eligible prescription drug expenses, the *plan member* will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

2. - 5.b. ...

i. For a supply of 1-34 days 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.

ii. For a supply of 35-68 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$100 per prescription dispensed.

iii. For a supply of 69-102 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$150 per prescription dispensed.

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1835 (October 1999), LR 27:720, 721 (May 2001), LR 27:1887 (November 2001), LR 29:

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. - A.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
Out-of-pocket threshold	\$1,200 per person, per <i>plan year</i>

Co-Pay after Threshold is Reached	
Brand	\$15
Generic	No co-pay
Plan pays balance of eligible expense	

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:719, 720, 722, 723 (May 2001), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows:

Effect on family earnings and family budget - For families participating in the OGB's PPO plan, the maximum co-payment for prescription drugs will increase from \$40 to \$50 per prescription and the out-of-pocket threshold will increase from \$1,000 to \$1,200. After the threshold is reached, the co-payment for prescription drugs is \$15 for brand drugs and \$0 for generics.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

RULE TITLE: PPO Plan of Benefits

Prescription Drugs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will reduce the state's expenses for prescription drug benefits by \$14 million for fiscal year 2003/2004, \$16.1 million in fiscal year 2004/2005, and \$18.5 million in fiscal year 2005/2006. Implementation of this Rule will not be effective until July 1, 2003 and is expected to offset prescription drug increases of approximately 15% for FY 04/05 and FY 05/06. It is anticipated that \$3,000 (FY 02/03) in printing costs will be incurred with the publishing of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule change will impact those PPO members that utilize the prescription drug benefit. This change will increase the co-insurance maximum from the current to \$40 per prescription to a maximum of \$50 per prescription. In addition, the out-of-pocket threshold per member will increase from \$1,000 per member to \$1,200 per member. This reduction in benefits will cause additional costs to the directly affected members. The extent of the impact will be directly

proportional to the number and cost of drugs prescribed for a plan member in any give benefit year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0211#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO Plan of Benefits C Retiree Coverage
(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. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO plan document relative to retiree coverage, providing that retirees who return to active employment will continue to be considered as retirees for the purposes participation in OGB plans. The reason for this action is to establish consistent administration of benefits for retirees in light of recent legislation that has resulted in an increase in the number of retirees returning to active employment.

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. ...

B. Retiree Coverage

1. Eligibility

a. Retirees of participant employers are eligible for retiree coverage under this plan.

b. An employee retired from a participant employer may not be covered as an employee of another participant employer.

c. Retirees are not eligible for coverage as overdue applicants.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement, if the retiree and participant employer have agreed to make and are making the required contributions.

C. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1825 (October 1999), LR 27:721 (May 2001), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

A. Kip Wall
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: PPO Plan of Benefits C Retiree Coverage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will not have any material affect on the Office of Group Benefits for fiscal year 2002/2003 and for any future years. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected. These Rule changes are being published to simplify the administrative procedures of the program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule change will impact those PPO members that retire and maintain coverage with OGB, as well as those retirees that retire and do not maintain coverage with OGB. Those retirees that maintain coverage with OGB and return to work as an active state employee will now be mandated to keep their eligible coverage as a retiree with their original employing agency continuing to pay the state share of these benefits. Those members that retire who did NOT maintain coverage with OGB will NOT be allowed to join the program as an active employee in the event they are employed at a later date.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment may be affected if a retiree without coverage seeks state employment for health and life insurance benefits. This Rule change will prevent retirees that return to work from becoming eligible for insurance benefits or any other enhanced benefit package.

A. Kip Wall
Chief Executive Officer
0211#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Office of the Governor
Division of Administration
Office of Group Benefits

PPO Plan of Benefits CWell-Adult Care Expenses
(LAC 32:III.301 and 701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO plan document relative to well adult care expenses. The changes are intended to clarify existing provisions of the plan relative to benefits for well-adult care expenses.

Accordingly, OGB hereby gives Notice of Intent to amend the following Rule to become effective upon promulgation.

Title 32
EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits
Chapter 3. Medical Benefits

§301. Medical Benefits Apply when Eligible Expenses are Incurred by a Covered Person

- A. - A.23.b.ii. ...
c. well-adult care expenses not subject to the annual deductible, but limited to a maximum benefit of \$200:
i. age 16 until age 40 C\$200 during a 3-year period;
ii. age 40 until age 50 C\$200 during a 2-year period;
iii. age 50 and over C\$200 during a 1-year period;

24. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1830 (October 1999), LR 28:480 (March 2002), LR 29:

Chapter 7. Schedule of Benefits-PPO

§701. Comprehensive Medical Benefits

- A. - B. ...
C. Well Care
1. - 2. ...
3. Well Adult (No deductible Climited to a maximum benefit of \$200)

Age 16-39 - \$200 during a 3-year period
Age 40-49 - during a 2-year period
Age 50 and over -\$200 during a 1-year period

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:719, 720, 722, 723 (May 2001), LR 27:1887 (November 2001), LR 29:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy .

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Groups Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, December 30, 2002.

A public hearing will be held from 6:00 p.m. until 7:30 p.m. on Monday, December 30, 2002 at the Louisiana Department of Transportation and Development (DOTD) Auditorium, 1201 Capitol Access Road, Baton Rouge, Louisiana 70802. Interested persons may appear and present their views at that time.

Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: PPO Plan of Benefits
Well-Adult Care Expenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will not have any material affect on the Office of Group Benefits for fiscal year 2002/2003 and for any future years. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not be affected. These Rule changes are being published to simplify the administrative procedures of the program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule change will impact those PPO members that utilize the wellness benefit of the program. This proposed Rule change will modify the wellness benefit to provide for a maximum \$200 benefit for each defined period rather than one physical exam per defined benefit period as follows: age 16 until age 40 C\$200 during a 3-year period; age 40 until age 50 C\$200 during a 2-year period; and after age 50 and over C\$200 during a 1 year period. This is a modification of the provisions of the plan document to conform to what has been the actual process of plan administration.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected.

A. Kip Wall
Chief Executive Officer
0211#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Real Estate Appraisers Board of Certification

Appraiser Certification (LAC 46:LXVII)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Real Estate Appraisers Board has initiated procedures to repeal LAC 46:LXVII.Real Estate. Subpart 2.Appraisers, Chapter 103, §10311.D.9-11 and §10313.D.21-23. This will remove textbook authorship, real estate journal articles, and appraisal course instruction from the experience credit points which may be used to obtain state certification as a real estate appraiser.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate Subpart 2. Appraisers

Chapter 103. Certification

§10311. Residential Certification Minimum Express

A. - D.8. ...

9. Repealed.

10. Repealed.

11. Repealed.

D.12. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:

§10313. General Certification Experience

A. - D.20. ...

21. Repealed.

22. Repealed.

23. Repealed.

Note:Repealed.

E. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:

Family Impact Statement

The proposed rules have no known impact on family formation, stability, or autonomy.

Interested parties are invited to submit written comments on the proposed regulations through December 10, 2002 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Appraisers Board, Box 14785, Baton Rouge, LA, 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA, 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Appraiser Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

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.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council requires this rule change so as to bring the Rules and Regulations of the Louisiana Real Estate Appraiser Board into compliance with Title 11 of the Federal, Reform, Recovery and Enforcement Act of 1989. This Rule change may affect competition and employment because it reduces the methods in which required experience credits may be earned.

Julius C. Willie
Executive Director
0211#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Real Estate Commission

Real Estate Names and/or Trade Names (LAC 46:LXVII.2501)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Real Estate, Chapter 25, Section 2501. The amendments specify what names and/or trade names may be used by an individual licensee, partnership, firm or corporate broker in advertising and establishes advertising guidelines specific to salesperson and associate brokers.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate Subpart 1. Real Estate

Chapter 25. Advertising

§2501. Advertisements

A. - B. ...

C. All advertising of a licensed individual, partnership, firm, or corporate broker shall include their licensed business name, which for the purpose of these rules shall mean the name in which that individual, partnership, firm or corporation is on record with the Commission as doing business as a real estate broker or, in the case of a trade

name, that which is registered with the Secretary of State and on record with the Commission.

D. A salesperson or associate broker is prohibited from advertising under only his or her name.

E. All advertising by a salesperson or associate broker must be under the direct supervision of his or her sponsoring broker.

F. In all advertising, the salesperson or associate broker must include the name and telephone number of his or her broker as defined in this Section. The broker's name and telephone number must be conspicuous, discernible, and easily identifiable by the public.

G. If allowed by the sponsoring broker, the salesperson or associate broker may include in the advertisement:

1. the salesperson's or associate broker's personal logo or insignia, which cannot be construed as that of a company name;

2. the salesperson's or associate broker's contact information;

3. a group or team name as long as the name(s) of the salesperson(s) and/or associate broker(s) are included near the team name reference and cannot be construed as that of a company name; and

4. a slogan that may not be construed as that of a company name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), LR 29:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the November 20, 2002 Louisiana Register. The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested parties are invited to submit written comments on the proposed regulations through December 10, 2002 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA, 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA, 70809.

Julius C. Willie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Real Estate Names and/or Trade Names

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Real estate licensees, registrants, and certificate holders may be required to modify current advertising; however, there is no way to estimate cost in that the extent to which advertising is use will vary. The proposed language is designed to benefit both the general public and the real estate industry by providing the ability to better identify the real estate company and/or agent with whom one is working in a real estate transaction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Julius C. Willie
Executive Director
0211#059

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Practical Nursing Examiners

Appointing Authority
(LAC 46:XLVII.301)

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed rule change to Section 303.A.1., Additional Duties and Powers of the Board, is to provide for delegation of appointing authority, previously granted to the board's executive director by policy, to be promulgated as rule. This rule has been in effect since October 24, 2002 when it was adopted as an Emergency Rule at a meeting of the board.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§303. Additional Duties and Powers of the Board

A. In accordance with the Louisiana Statutes, Title 37, Section 969, the board shall have all such powers and duties as written. In addition the board shall:

1. appoint an executive director and associate executive director who shall be professional nurses currently licensed in the state of Louisiana and who shall serve as the executive staff of the board. The executive director, or in her absence the associate executive director, serves as the appointing authority of the board;

2. - 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended

by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 26:2614 (November 2000), LR 29:

Family Impact Statement

The proposed amendments, to LAC 46:XLVII.Subpart 1., should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, and/or the ability of the family or local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 3:30 p.m., January 31, 2003, to Claire Doody Glaviano, Board of Practical Nurse Examiners, 3421 N. Causeway, Ste. 203, Metairie, LA 70002.

Claire Doody Glaviano
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Appointing Authority

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost associated with the implementation of the proposed rule changes will be the cost to publish the Rule in the *Louisiana Register* at \$108.00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will have no financial effect upon state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule will have no significant effect on costs and/or economic benefits to directly affected persons, or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Claire Doody Glaviano
Executive Director
0211#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Medical Services Professionals Emergency Medical Services Certification Commission

EMS Certification
(LAC 46:XXXVIII.Chapters 1-5)

Under the authority of the Department of Health and Hospitals R.S 20:1710 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Emergency Medical Services, Certification Commission, hereby gives notice of intent regarding the proposed rules to establish procedures to provide direction in the transaction of the business of administering and

implementing the spirit and intent of the law governing the practice of emergency medical services professionals.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVIII. Emergency Medical Services Certification Commission

Subpart 1. Rules of Procedure

Chapter 1. General

§101. Statement of Purpose

A. The Louisiana Emergency Medical Services Certification Commission is a legally created administrative commission acting within the governmental structure of the state and possessing legal power. To safeguard life and health of the citizens of Louisiana, the law governing the practice of Nationally Registered and State Certified Emergency Medical Technicians, Louisiana Revised Statutes of 1950, R.S. 40:1236 et seq., as re-enacted and amended, delegates to this commission the responsibility to establish and publish standards of out-of-hospital practice; to regulate the scope of practice of Emergency Medical Technicians and to establish standards for educational programs preparing individuals for out of hospital practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

Chapter 3. Registration and Certification

§301. State and National Certification

A. State certification by the Bureau of Emergency Medical Services is mandatory for practicing as a certified first responder.

B. National registration and state certification is mandatory for practicing as a certified emergency medical technician.

C. State certification as a certified Emergency Medical Services professional shall be issued only to an applicant who qualifies by examination or endorsement in accordance with R.S. 40:1231, et seq. All applicants shall meet the same standards.

D. The commission shall render an opinion to the Bureau of Emergency Medical Services on whether the applicant meets the requirements of certification in all questionable cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§303. Denial of Certification, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for certification, reinstatement, or the right to practice as an EMS student shall be denied approval for certification, reinstatement, receipt of a temporary permit, eligibility for the National Registry exam, or entry or progress into any clinical or field internship aspects of an EMS course, if the applicant:

1. knowingly falsifies any documents submitted to the bureau, commission or the EMS educational facility; or

2. has pled guilty, nolo contendere, been convicted of, or committed a: "crime of violence" as defined in R.S. 14:2(13), or any of the following crimes:

- a. first degree feticide;
- b. second degree feticide;
- c. aggravated assault with a firearm;
- d. stalking,
- e. false imprisonment (offender armed with a dangerous weapon);
- f. incest;
- g. aggravated incest;
- h. molestation of a juvenile;
- i. sexual battery of the infirm; or
- j. crime which involves felony drug charges.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are denied certification, reinstatement, or the right to practice EMS as a student shall not be eligible to submit a new application, unless the ground for denial is falsification of records and until the following conditions are met.

1. A minimum of five years has passed since the denial was issued.

2. The applicant presents evidence that the cause for the denial no longer exists.

3. A hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the denial no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§305. Delay of Certification, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for certification, reinstatement, and for practice as a EMS student shall have approval delayed for certification, for reinstatement, to receive a temporary working permit, to be eligible for National Registry Exam, or to enter or progress into any clinical EMS course, if the applicant:

1. has any pending disciplinary action or any restrictions of any form by any licensing/certifying entity in any state; or

2. has a pending criminal charge that involves any violence or danger to another person, or involves a crime which constitutes a threat to patient care; or

3. has pled guilty, nolo contendere, been convicted of or committed a crime that reflects on the ability of the person to practice EMS safely, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole. If the crime is a "crime of violence" as defined in R.S. 14:2(13) or any of the following crimes: first degree feticide, second degree feticide, aggravated assault with a firearm, stalking, false imprisonment-offender armed with a dangerous weapon, incest, aggravated incest, molestation of a juvenile, sexual battery of the infirm, the applicant shall be denied.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are delayed certification, reinstatement, or the right to practice EMS, as a student shall not be eligible to submit a new application until the following conditions are met.

1. The applicant presents sufficient evidence that the cause for the delay no longer exists; and

2. A hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

Chapter 5. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§501. Disciplinary Proceedings Before the Commission

A. The Emergency Medical Services Certification Commission has the responsibility to consider and determine the action necessary upon all charges of conduct which fall to conform to R.S. 40:1231 et seq., as re-enacted and amended, or to the rules and regulations promulgated to carry out the provisions of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§503. Proceedings against Certified EMS Professional or Certified EMS Professional Applicants

A. The commission may direct the Bureau of Emergency Medical Services to deny, revoke, suspend, probate, limit, reprimand, or restrict any certification to practice as a certified EMS professional or otherwise discipline an individual in accordance with R.S. 40:1232.6.

B. Every individual subjected to disciplinary proceedings shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer or committee.

C. A complaint that an individual has engaged in, or is engaging in, any conduct proscribed by R.S. 40:1232.6, may be made by any person, staff, agency or the commission. Such complaints shall be in writing, and on a form prescribed by the commission or affixed to the form prescribed by the commission.

D. Grounds for disciplinary proceedings against a certified EMS professional are specified in R.S. 40:1232.6:

1. is guilty of selling or attempting to sell, falsely obtaining, or furnishing to a person a certified emergency medical technician or certified first responder certification document;

2. is guilty of a felony or is convicted of a crime or offense which reflects the inability to practice EMS with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding, including, but not limited to, expungement, non-adjudication or pardon;

3. is unfit or incompetent by reason of negligence, habit, or other cause;

4. is habitually intemperate in the use of or abuses alcohol or habit-forming drugs;

5. has demonstrated actual or potential inability to practice EMS with reasonable skill and safety to individuals because of use of alcohol or drugs; or has demonstrated inability to practice EMS with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition;

6. is mentally incompetent;

7. has had a certification to practice EMS or to practice as another health care provider denied, revoked, suspended, or otherwise restricted;

8. is guilty of moral turpitude;

9. has violated any provision of this Subpart;

10. is guilty of aiding or abetting another person in the violation of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§505. Proceedings Involving Students Enrolled in EMS Courses

A. The commission may direct the Bureau of Emergency Medical Services to deny, revoke, suspend, probate, limit, reprimand or restrict any student enrollment in EMS courses, or otherwise discipline a student enrolled in EMS courses or attempting to enroll in EMS courses as part of its duties and responsibilities in regulating the practice of EMS in Louisiana and in overseeing the administration of the curriculum and operation of EMS education programs in the state of Louisiana.

B. Every student enrolled or attempting to enroll in EMS courses subjected to the proceedings set forth above, shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer.

C. Information obtained by the commission that a EMS student enrolled or attempting to enroll in EMS courses is or has engaged in any conduct prescribed by R.S. 40:1232.6., shall be received in a form prescribed by the commission. This information may be furnished by any person, staff, agency or by the commission.

D. Grounds for proceedings against a student enrolled or attempting to enroll in EMS courses are:

1. all of the grounds for disciplinary proceedings against certified EMS professional listed in Section D. of Proceedings Against Certified EMS Professional or Certified EMS Professional Applicants;

2. has been denied a request to enroll in EMS courses or has been denied a Certification to practice in any health care field or had such privileges revoked, suspended or otherwise restricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§507. Definition of Terms

A. The commission in the exercise of its disciplinary authority has adopted the following meaning for the following terms.

*Aiding and Abetting*Cto intentionally assist anyone by condoning, or to apply positive or negative force to assist

anyone in violating the Emergency Medical Services Practice Act or the rules and regulations of the commission or bureau.

*Deny*Cto refuse for cause.

*Habit*Ca mode of behavior, which an individual acquires over a period of time.

*Limit*Cto confine within certain bounds.

*Mentally Incompetent*Ca court judgment of legal insanity or incompetence or a medical diagnosis indicating insanity or incompetence.

*Moral Turpitude*Can act, which is dishonest, or contrary to good morals.

*Negligence*Ca breach of duty of care owed to an individual.

*Other Causes*Cincludes, but is not limited to:

a. failure to practice EMS in accordance with the standards of EMS practice;

b. possessing a physical impairment or mental impairment, which interferes with the judgment, skills or abilities required for the practice of EMS;

c. failure to utilize appropriate judgment;

d. failure to exercise technical competence in carrying out EMS care;

e. violating the confidentiality of information or knowledge concerning the patient;

f. performing procedures beyond the authorized scope of EMS or any specialty thereof;

g. performing duties and assuming responsibilities within the scope of the definition of EMS practice when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

h. improper use of drugs, medical supplies or equipment, patient's records, or other items;

i. misappropriating items of an individual, agency, or entity;

j. falsifying records;

k. failure to act, or negligently or willfully committing any act that adversely affects the physical or psychosocial welfare of the patient;

l. delegating or assigning EMS care, functions, tasks, or responsibilities to others contrary to regulations;

m. leaving a EMS assignment without properly notifying appropriate personnel;

n. failing to report to the Bureau of Emergency Medical Services, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;

o. has violated a rule or an order adopted by the commission or the bureau, or a state or federal law relating to the practice of professional EMS, or a state or federal narcotics or controlled substance law;

p. inappropriate, incomplete or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgment while on duty;

r. failure to cooperate with the commission or bureau by:

i. not furnishing in writing a full and complete explanation covering a matter requested by the commission or bureau; or

- ii. not responding to subpoenas issued by the commission in connection with any investigation or hearing;
- s. exceeds professional boundaries, including but not limited to sexual misconduct; and
- t. use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

Probate Cto stay a sentence of certification suspension during good behavior and placing under supervision of Bureau for a period of time. Certification is marked "probated" and specific requirements are identified.

Professional Boundaries Cthe limits of the professional relationship that allow for a safe therapeutic connection between the professional and the patient.

Reprimand Cwritten communication to the individual stating the commission's concerns, and public notification of the individual's name and reason for the reprimand.

Restrict Cto limit or restrain EMS practice by settings, types of patients, or other means.

Reasonable Skill and Safety Cpracticing EMS in accordance with the standards of EMS practice.

Revoke Cto annul or make void by calling back. Revocation of certification shall be indefinite as to the practice of EMS in Louisiana.

Sexual Misconduct Can extreme boundary violation which involves the use of power, influence and/or knowledge inherent in one's profession in order to obtain sexual gratification, romantic partners and/or sexual deviant outlets. Any behavior that is seductive, sexually demeaning, harassing or reasonably interpreted by a patient as sexually inappropriate, is a violation of the EMS professional's fiduciary responsibility to the patient.

Suspend Cto hold certification to practice as a certified EMS professional in abeyance for a definite or an indefinite period of time.

Unfit or Incompetent Cunsuitable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§509. Disciplinary Process and Procedures

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 40:1231 et seq., as re-enacted and amended.

1. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

2. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the individual did certain acts and, if he did, whether those acts violated the Emergency Medical Services Practice Act or rules and regulations of the commission or bureau; and to determine the appropriate disciplinary action.

3. Any disciplinary action shall also be forwarded to the National Registry of Emergency Medical Technicians (NREMT), as applicable, and any other certification agency and/or required reporting entity.

B. Investigation

1. The process of a disciplinary proceeding shall include certain steps and may include other steps as follows.

a. The bureau or commission receives information alleging that an individual has acted in violation of the Emergency Medical Services Practice Act. Communications from the informant shall be privileged and shall not be revealed to any person unless such documents will be offered for evidence in a formal hearing, or unless those documents are subpoenaed by a court, or requested by other regulatory or law enforcement agencies.

b. The information is investigated by the bureau's staff to determine if there is sufficient evidence to warrant disciplinary proceedings. Information received by the bureau or commission shall not be considered a complaint until the individual furnishing that information provides the information in writing. The commission chair or designee may issue a subpoena prior to the filing of charges if, in the opinion of the chair, such a subpoena is necessary to investigate any potential violation or lack of compliance with R.S.40:1231 et seq., or the rules, regulations, or orders of the bureau or commission. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony and/or to compel the production of books, records, papers, or other objects.

2. An agreement worked out between the complainant and the individual does not preclude disciplinary action by the commission. The nature of the offense alleged and the evidence before the commission must be considered.

C. Informal Disposition of with No Disciplinary Action

1. Some allegations may be settled informally by the commission and the individual, without formal disciplinary action. The following types of informal dispositions may be utilized.

a. Disposition by Correspondence

i. For less serious allegations, the chair, or a designee of the commission, may write to the individual explaining the nature of the information received. The individual's subsequent response may satisfactorily explain that no violation of the Emergency Medical Services Practice Act, or rules, or order of the commission or bureau occurred, or that the matter does not rise to the level requiring formal disposition at this time, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be investigated and disposed of through another informal means or brought before the commission for a formal hearing.

b. Informal Conference

i. The chair, or a designee of the chair, and another member of the commission or a bureau staff member may hold a conference with the individual, in lieu of, or in addition to correspondence, in cases of less serious allegations. If the respondent can satisfactorily explain that no violation of the Emergency Medical Services Practice Act, or rules, or order of the commission or bureau occurred, or that the matter does not rise to the level requiring formal disposition at this time, then the matter may be dismissed.

ii. The individual shall be given adequate notice of the fact that information brought out at the conference may later be used in a formal hearing.

iii. Referral to an alternative to the disciplinary process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§511. Formal Disciplinary Action

A. A decision to initiate formal disciplinary proceedings is made if one or more of the following conditions exist:

1. the complaint is sufficiently serious;
2. the individual fails to respond to the commission's correspondence concerning the complaint;
3. the individual's response to the commission's letter or investigative demand is not convincing that no action is necessary;
4. an informal approach is used, but fails to resolve all of the issues.

B. Informal Procedures

1. The matter may be resolved without a formal administrative hearing by either a voluntary surrender of certification, Consent Order, or Settlement Order. These actions shall constitute disciplinary action and shall be a public record of the commission. The commission shall publish the individual's name, a brief description of the violation, and the disciplinary action.

C. Voluntary Surrender of Certification. An individual who is under investigation for violation of the practice act or rules of the commission or bureau may voluntarily surrender his certification to the bureau. The voluntary surrender invalidates the certification at the time of its relinquishment. An individual practicing as a certified EMS professional during the period of voluntary certification surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter and RS 40.1231 et seq.

1. Any certification surrender shall not be deemed to be an admission of the alleged facts of any pending investigation or complaint. The fact of certification surrender shall be deemed a disciplinary action and shall be reported and distributed in the same manner as final decisions of the commission.

2. Surrender or non-renewal of certification shall not preclude the commission from investigating or completing a disciplinary proceeding based upon the individual's conduct prior to or subsequent to the surrender of certification.

3. Individuals who surrender their certification are not eligible for reinstatement of certification for a minimum of two years and until meeting the requirements for reinstatement of certification as described in this chapter.

D. Consent Order

1. An order involving some type of disciplinary action may be made by the commission with the consent of the individual.

2. The chair or the Bureau of EMS Director is authorized to offer the individual the choice of a Consent Order in lieu of an Administrative Hearing.

3. A Consent Order signed by an individual is an irrevocable offer by the individual until approved, or rejected, by the commission chair or designee.

4. A Consent Order requires formal approval of a quorum of the commission. All actions of the bureau shall be reported to the commission at its next regularly scheduled meeting.

5. A Consent Order is not the result of the commission's deliberation; it is the commission's formal approval of an agreement reached between the commission and the individual. The order is issued by the commission to carry out the parties' agreement.

a. Should the commission require evidence before arriving at a decision, the individual shall be notified and given an opportunity for a hearing.

b. Should the commission revise the terms of the agreement, said revised agreement shall be presented for the individual's acceptance. The commission may formulate its order contingent upon the individual's acceptance.

c. The commission shall have the right to refer any case directly to an Administrative Hearing without first offering a Consent Agreement.

E. Settlement Order

1. Disciplinary Settlement Committee, consisting of the chair, or a designee of the chair, and another member of the commission or a bureau staff member, is delegated the authority to render a final decision regarding settlement of a contested administrative matter by offering a Settlement Order in lieu of an administrative hearing. The Settlement Order shall be deemed an Order of the commission, effective immediately upon signature of all parties to the agreement.

a. The Disciplinary Settlement shall be submitted to the commission for review at the next regularly scheduled disciplinary hearing.

b. Should the Disciplinary Settlement Committee be unable to successfully resolve a case, or should the Committee believe that the public would be better protected by a decision rendered by the entire commission, the matter will be forwarded to the commission for a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§513. Formal Hearing

A. The commission has the authority, granted by R.S. 40:1232.3, to bring administrative proceedings to certified EMS professionals, applicants for certification, individuals seeking enrollment or progression in an approved EMS program, and individuals practicing EMS without certification. The commission and the individual are the parties to the proceeding. The individual has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. Notice and Service

1. The chair or a designee fixes a time and place for a hearing.

2. At least 15 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail, return receipt requested, to the individual's address of record. Notice to an individual is effective and service is complete when sent by certified mail to the individual's address of record.

3. At least five working days prior to the scheduled hearing date, the individual shall respond in writing as to his intention to appear or not appear at the scheduled hearing. At least five working days prior to the scheduled hearing date, the individual shall also file with the commission a written

response to the specific allegations contained in the notice of charges. Allegations not specifically answered shall be deemed admitted.

4. If the individual does not appear, in person or through counsel, after proper notice has been given, the individual has waived these rights and the commission may proceed with the hearing without the presence of the individual.

C. Motions for Continuance

1. The commission shall not postpone cases that have been scheduled for hearing absent good cause. A written motion by a certified EMS professional, applicant, or student for a continuance shall be filed with the commission five working days prior to the time set for the hearing, except for extreme emergencies. The motion shall contain the reason for the request, which reason must be based upon good cause and have relevance for due process. Requests for continuances may be approved or denied by the chair or designee. No more than three requests for continuance shall be granted.

D. Subpoenas

1. The chair, or a designee of the commission, issues subpoenas for the commission for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

- a. a subpoena requiring a person to appear and give testimony;
- b. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has control.

E. Hearing

1. The hearing is held, at which time the commission's primary role is to hear evidence and argument, and to reach a decision. Any commission member, who because of bias or interest is unable to assure a fair hearing, shall be recused from that particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the commission members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

2. The commission shall be represented by a Department of Health and Hospitals' attorney. Evidence is presented that disciplinary action should be taken against the individual. The individual may present evidence personally or through an attorney, and witnesses may testify on behalf of the individual.

3. Evidence includes the following:

- a. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by requesting party) and/or by sworn affidavits;
- b. documentary evidence, i.e., written or printed materials including public, business or institutional records, books and reports; such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference, if the incorporated materials are available for examination by the parties before being received into evidence;
- c. visual, physical and illustrative evidence;
- d. admissions, which are written or oral statements of a party made either before or during the hearing;

e. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.;

f. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

4. The chair of the commission presides and the customary order of proceedings at a hearing is as follows.

a. The chair of the commission presents the case against the individual.

b. The individual, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The individual commission members ask relevant questions.

d. The individual, or his attorney, may make any statements or questions to the commission.

e. The chair of the commission makes the final statement.

f. The commission may impose reasonable time limits on all sides in a hearing, provided that limits will not unduly prejudice the rights of the parties.

g. The commission may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record.

h. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

i. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time, according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the transcript of the proceeding.

5. The records of the hearing shall include:

- a. all papers filed and served in the proceeding;
- b. all documents and other materials accepted as evidence at the hearing;
- c. statements of matters officially noticed;
- d. notices required by the statutes or rules, including notice of the hearing;
- e. affidavits of service or receipts for mailing or process or other evidence of service;
- f. stipulations, settlement agreements or consent orders, if any;
- g. records of matters agreed upon at a pre-hearing conference;
- h. orders of the commission and its final decision;
- i. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
- j. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.
- k. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript. A party who appeals a decision of the commission shall pay all of the costs incurred by the Department of Health and Hospitals for preparation of the original and any certified copy of the record of the proceeding that is required to be transmitted to the reviewing court.

6. The decision of the commission shall be reached according to the following process.

a. Determine the facts in the issue on the basis of the evidence submitted at the hearing.

b. Determine whether the facts in the case support the charges brought against the individual.

c. Determine whether charges brought are a violation of the Emergency Medical Services Practice Act or rules and regulations of the commission or the bureau.

7. The vote of the commission shall be recorded. Minority views may be made part of the record.

8. Sanctions against the individual who is party to the proceeding are based upon the findings of fact and conclusions of law determined by the hearing. The party is notified by certified mail of the decision of the commission.

F. Disciplinary Sanctions

1. The type of disciplinary sanctions and length of time specified for the sanctions shall be determined on an individual basis, considering all facts pertinent to the case.

2. The commission sets forth guidelines with ranges of disciplinary sanctions from which disciplinary penalties may be imposed. These guidelines are intended to serve only as a guide for staff and commission members when considering penalties, which could be imposed for specific violations of the Emergency Medical Services Practice Act. Guidelines are in no way binding on the commission when dealing with disciplinary matters. The commission may order certification sanctions.

3. The disciplinary guidelines are based upon a single count violation. Multiple counts of violations of the same action, or other unrelated violations contained in the same complaint will be grounds for enhancement of penalties. Each day of a continuum of violations may be treated as a separate violation.

4. In determining sanctions, the staff shall consider aggravating or mitigating circumstances identified by the commission in addition to any other factors. The list of aggravating and mitigating circumstances in the guidelines is not to be considered an exclusive list of circumstances.

a. Aggravating circumstances may result in the commission issuing maximum sanctions, or they may justify enhancement of a penalty beyond the maximum guidelines.

b. Mitigating or extenuating circumstances may justify lessening of the sanctions below the minimum guidelines. Certification suspensions may be stayed with stipulated probations in some extenuating circumstances.

5. The Order may stipulate remedial education, specific evaluation and therapy, and other sanctions as deemed necessary and appropriate to the case.

G. Reconsideration or Rehearing

1. The commission shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the commission's decision has been appealed.

2. The commission may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party files a petition requesting that the decision be reconsidered by the commission and specifies the particular grounds therefore.

3. A petition by a party for reconsideration or rehearing must be in proper form and filed within 10 days from the date of entry of the decision. A decision is deemed to be entered when it is signed by the chair or designee and sent by certified mail to the individual's address of record. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

a. the commission's decision is clearly contrary to the law and the evidence;

b. there is newly discovered evidence, which was not available to the individual at the time of the hearing and which may be sufficient to reverse the commission's action.;

c. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

d. it would be in the public interest to further consider the issues and the evidence;

e. upon the commission's receipt of a petition for rehearing or reconsideration, the commission may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the above stated reasons. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

H. Emergency Action

1. If the commission finds that public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a certification may be ordered by the chair or designee pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined at the next regularly scheduled commission meeting.

I. Disciplinary Proceedings in another Licensing Jurisdiction

1. When a certified EMS professional has his certification revoked, suspended, denied or sanctioned in other ways for disciplinary reasons by the original certification/licensing jurisdiction or by a subsequent certification/licensing authority that certified EMS professional shall be notified that his Louisiana Certification is automatically suspended, except for the following:

a. nonpayment of fees;

b. a person in a recovery program for chemical dependency receives permission of the state of origin to transfer to another state;

c. the certified EMS professional is issued a reprimand and the certified EMS professional agrees to having his Louisiana Certification reprimanded identically to, or in excess of, the said jurisdiction's reprimand; and

d. the certification is encumbered with a reprimand with stipulations and the certified EMS professional agrees to having his Louisiana Certification probated with stipulations that are identical to, or exceed, the stipulations in said jurisdiction.

2. The certified EMS professional may have his certification reinstated provided that the certified EMS professional:

a. provides evidence of an unencumbered certification by the involved certification/licensing authority and all subsequent certification/licensing authorities; and

b. meets requirements for reinstatement of certification as described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§515. Appeal from Commission Decision

A. Any person whose certification has been revoked, suspended, denied, or otherwise disciplined by the bureau shall have the right to have the proceedings of the commission reviewed by the court having jurisdiction over the commission, provided that such appeal is made within 30 days after the date indicated on the registered mail receipt of the written notice of the commission's decision. The commission's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§517. Reinstatement of Certification

A. Application for reinstatement of a suspended or surrendered certification shall be in writing.

B. The application for reinstatement of a suspended certification does not require satisfaction of the requirements for initial certification. However, the requirements of LAC 46:XXXVIII shall be met.

C. Prior to reinstatement of a certification previously suspended (except for nonpayment of fees), a hearing or conference is held before the commission to afford the applicant with the opportunity to present evidence that the cause for the revocation or suspension no longer exists and to provide an opportunity for the commission to evaluate changes in the person or conditions. In certain situations, the certification may be reinstated by consent order or settlement order. The burden of proof is on the applicant to prove that conditions that led to the suspension no longer exist and/or no longer affect applicant's ability to practice safely. If reinstatement is granted, a period of probation with stipulations may be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

§519. Definition of Terms Applying to EMS Practice as used in this Chapter

Accountability Cbeing answerable for one's actions or inactions. The certified EMS professional answers to self, patient, agency, profession and society for the effectiveness and quality of EMS care rendered. It is the personal responsibility of each individual to maintain competency in practice. If the assigned EMS professional does not possess the specialized EMS knowledge, skills and abilities required to provide the required care, said professional shall notify the appropriate supervisory EMS personnel.

Additional Acts Cactivities beyond those taught in basic EMS education programs. Additional acts are authorized by the commission through rules and regulations or declaratory statements interpreting the legal definition of EMS. Certified EMS professional are accountable for attaining and

maintaining competency when performing approved additional acts.

Assessing Health Status Cgathering information relative to physiologic, behavioral, sociologic, spiritual and environmental impairments and strengths of an individual by means of the patient history, physical examination, and observation, in accordance with the department's Standards of EMS Practice.

Assignment Cdesignating EMS activities to be performed by an individual consistent with his scope of practice.

Care Supportive to or Restorative of Life and Well-being Cactivities designed to resolve, diminish, or prevent the needs that are inferred from the individual's problem; includes the planning, implementation and evaluation of said activities in accordance with the department's Standards of EMS Practice.

Case Finding Cidentifying human responses, which indicate existing, or potential unwell ness.

Collaborating Ca process involving two or more health care professionals working together, though not necessarily in each other's presence, each contributing one's respective area of expertise to provide more comprehensive care than one alone can offer.

Delegating EMS Interventions Centrusting the performance of selected EMS tasks by the certified EMS professional to other competent EMS personnel in selected situations. The certified EMS professional retains the accountability for the total EMS care of the individual. The certified EMS professional is responsible for and accountable to each consumer of EMS care for the quality of EMS care he receives, regardless of whether the care is provided solely by the certified EMS professional or by the certified EMS professional in conjunction with other licensed or unlicensed personnel.

1. The certified EMS professional shall assess the patient care situation which encompasses the stability of the clinical environment and the clinical acuity of the patient, including the overall complexity of the patient's health care problems. This assessment shall be utilized to assist in determining which tasks may be delegated and the amount of supervision which will be required.

2. Any situation where tasks are delegated should meet the following criteria:

- a. the person has been adequately trained for the task;
- b. the person has demonstrated that the task has been learned;
- c. the person can perform the task safely in the given EMS situation;
- d. the patient's status is safe for the person to carry out the task;
- e. appropriate supervision is available during the task implementation;
- f. the task is in an established policy of the EMS practice setting and the policy is written, recorded and available to all.

Evaluating Human Responses to Interventions Cmeasuring the effectiveness of the EMS actions in achievement of established goals.

Executing Health Care Regimes as Prescribed by a Licensed Physician Ccarrying out the medical orders of a physician licensed in Louisiana.

1. Certified EMS professionals may, based on their individual judgment of each situation, accept verbal orders initiated by a licensed physician, provided the order is related to the said practitioner's scope of practice.

2. Certified EMS professionals may execute standing orders of a licensed physician provided the said physician initiates the standing orders and provided, further, that the said orders do not require the EMS professional to make a medical diagnosis or to engage in prescriptive activity.

Goals to Meet Identified Health Care Needs Statements which facilitate the patient's achievement of expected outcomes of care.

Health Instruction Those EMS measures that provide health information and explanation.

Maintaining EMS Care Rendered Directly or Indirectly Preserving the continuity of safe and effective EMS care, including the delegated EMS activities.

Managing and Supervising the Practice of EMSC Those activities which serve to fulfill the accountability of the certified EMS professional for the total EMS care of the individual when tasks in the EMS care are delegated to other EMS personnel. These activities include:

1. judging the priority of EMS needs of the individual(s);
2. determining actions required to meet the needs;
3. assigning personnel, including self, qualified to implement the prescribed EMS care components of that care;
4. providing information needed by personnel for the implementation of the assigned EMS care and ascertaining the assimilation of same information;
5. directing the EMS care and evaluating the outcomes of that care;
6. determining and initiating changes in EMS care or in assignment of EMS personnel.

Medical Diagnosis The conclusion reached in identification of the patient's disease, especially the art of distinguishing among several possibilities with the intent of prescribing relevant treatment. Ordinarily, the pronouncement of death requires a medical diagnosis. However, in a non-acute care setting, when an anticipated death has apparently occurred, certified EMS professional may cause to have the decedent removed to the designated funeral home in accordance with a standing order of a medical director/consultant setting forth basic written criteria for a reasonable determination of death.

Medical Prescriptions Medical interventions. These include all medications and medical treatments of therapeutic or corrective nature.

Planning EMS Care Measures Documenting all activities, to be performed by the certified EMS professional or delegated to other EMS personnel, which facilitate achievement of expected patient care outcomes.

Specialized Knowledge and Skills Required for the practice of EMS means the current theory and practice taught in basic EMS education programs preparing persons for certified EMS professional certification as well as information in the biological, physical and behavioral sciences.

Student EMS Professional A person who is engaged in learning experiences in a program of study leading to candidacy for certification to practice as a certified EMS

professional. The term applies only when the person is participating in an integral part of the program of study.

Teaching the Theory and Practice of EMSC Instructing basic or advanced EMS students and providing continuing EMS education to certified EMS professionals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Medical Services Professionals, Emergency Medical Services Certification Commission, LR 29:

Chapter 7. Administrative Provisions

Subchapter A. Fees and Costs Reserved

Family Impact Statement

The proposed Rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Gene Salassi, Chairman, EMS Certification Commission, 161 Third Street, Baton Rouge, LA 70801, or by facsimile to (225) 342-4876. All comments must be submitted by 4:30 p.m. on December 10, 2002.

Gene Salassi

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: EMS Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A projected onetime implementation cost of approximately \$1,836 in FY 02-03 is directly attributed to cost incurred in publishing the notice of intent and the final rule in the Louisiana Register. Notification of the rule will also be published at no additional costs on the Department of Health and Hospital/Office of Public Health website and other free sites. The proposed rule will not require any other costs nor any savings during FY 02-03 or subsequent fiscal years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule should have a revenue neutral effect on revenue collections by state and local governmental units. The proposed rule does not propose to change certification fees as currently assessed during the current Emergency Medical Services (EMS) certification process.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs for the general public or EMS unless they are personally involved in a hearing before the commission. If this occurs, the individuals are responsible for complying with terms of the subpoena, i.e., attending hearing in Baton Rouge, securing attorney if desired, securing and/or copying and mailing support documents. It is impossible to determine estimate due to all variables.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This should not effect competition but may effect employment because it is possible that an individual appearing before the commission may be denied certification as an Emergency Medical Technician (EMT) or have their certification suspended or revoked depending upon the severity of the offense.

Madeline W. McAndrew
Assistant Secretary
0211#084

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Radiologic Technology Board of Examiners

Actions before the Board and Licensure
(LAC 46:LXVI.Chapters 7 and 11)

In accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:950, et. seq., notice is hereby given that the Department of Health and Hospitals, Radiologic Technology Board of Examiners, pursuant to the authority vested in the board by R.S. 37:3207, intends to amend LAC 46:LXVI.Chapter 7, Informal Proceeding/Consent Order and LAC 46:LXVI.Chapter 11, Licensure by Examination, Application for Examination and Modifications to Submitted Information.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVI. Radiologic Technologists

Chapter 7. Actions Before the Board

§705. Informal Proceeding/Consent Order

A. Informal Proceeding

1. The allegation(s) against a licensee may be concluded through informal proceedings without the necessity of a formal hearing if the Board Chair and/or designee does not deem the allegation(s) to be sufficiently serious to necessitate the convening of a formal hearing. The informal resolution of the allegation(s) may be accomplished through correspondence between the Executive Director and the licensee; by conference of the Executive Director and the licensee; or by consent order between the licensee and the Board.

2. The Executive Director shall be authorized by the Board to propose a recommended consent order to the licensee which would outline the details of disciplinary action between the parties as a consequence of the allegations.

B. The proposed consent order offered by the Board through its Executive Director shall not be deemed as absolute and final until such time as the Board ratifies the provisions of the said order.

C. A consent order between the Board and the licensee or prospective licensee shall describe the disciplinary action which will be taken. The consent order shall be signed by the licensee or prospective licensee, the Chairman and the Vice-Chairman of the Board.

D. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the Board Chair and/or designee, a formal hearing shall be initiated pursuant to the provisions of §707 A, et. seq.

E. If, at any point during investigation or during informal/formal proceedings as described herein, the Board finds that public health, safety, or welfare imperatively requires emergency actions, the Board is hereby authorized to immediately suspend the license of the licensee during the course of the proceedings. If the Board decides to institute a

formal hearing, the hearing shall be instituted and conducted at the Board's next regularly scheduled Board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:869 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 19:1433 (November 1993), LR 29:

Chapter 11. Licensure

§1109. Licensure by Examination

A. Pursuant to R.S. 37:3207 and 3209, an application for licensure shall be required to pass the written examination of the Louisiana State Radiologic Technology Board of Examiners which shall be the examination constructed by the American Registry of Radiologic Technologists (ARRT) for each category of radiologic technology, except as otherwise provided above.

1. To be eligible for examination by the board, an applicant shall possess all qualification for licensure prescribed by R.S. 37:3208, provided, however, that an applicant who has completed or prior to examination will have completed his approved course of study, shall be deemed eligible for examination upon submission to the board of a letter from the program director of a board approved school or college of radiologic technology certifying that the applicant will complete or has completed his/her radiologic technology course of study prior to examination and specifying the date of completion.

B. The board establishes as the passing criterion on the ARRT written examination the passing score as established by the ARRT.

C. The eligible applicant must request and submit application to the ARRT for licensure examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207, R.S. 37:3208 and R.S. 37:3209.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), LR 29:

§1111. Application for Initial Licensure/Temporary Work Permit by Examination

A. Requests for application forms shall be requested and submitted to the state board.

B. Pursuant to R.S. 37:3210(C), a temporary work permit shall be issued one time only and for the time listed on the temporary work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207 and R.S. 37:3209.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), LR 29:

§1115. Modifications to Submitted Information

A. Address or Name Changes. If a licensure/temporary work permit applicant must change the mailing address which was entered on the application form, the examinee must inform the board in writing. Changes in the examinee's name are to be handled in the same manner, but must be accompanied by documentary evidence of the change (e.g.,

copy of marriage certificate, legal name change form, etc. cetera). If an admission ticket fails to reach a candidate due to a change of address that was not relayed to the board, the candidate may not be allowed into the examination center. No address or name changes will be processed at the examination center. All changes must be sent directly to the board by the candidate.

B. Postponements. Applicants are expected to appear for examination as assigned. When circumstances make it impossible for an examinee to appear for examination on the date assigned, the examinee may request rescheduling. Requests for rescheduling must be made in writing and submitted to the ARRT as per their rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), LR 29:

Interested persons may submit written comments until 4:30 p.m., December 10, 2002, to Richard S. Whitehorn, Louisiana State Radiologic Technology Board of Examiners, 3108 Cleary Avenue, Suite 207, Metairie, LA 70002.

Richard S. Whitehorn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Actions before the Board and Licensure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule change will have no fiscal impact for SFY 2002-03, 2003-04, or 2004-05. It is anticipated that \$75 will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed rule amendment 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 amendment will not impact state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule amendment will not affect either costs or savings to directly affected persons or non-governmental groups. The changes are procedural in nature and are intended to better explain the licensing process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Richard S. Whitehorn, L.R.T.
Executive Director
0211#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Gaming Control Board

Definitions, General Provisions/Authority of the Division, Imposition of Sanctions, Application and License, Surveillance and Division Room Requirements, Enforcement Actions of the Board (LAC 42:VII.1701, 2101, 2325; IX. 2101, 4103; XI. 2405; XIII.1701, 2101, 2325, 3305)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.1701, 2101, 2325, IX.2101, 4103, XI.2405, XIII.1701, 2101, 2325, and 3305, 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 17. General Provisions

§1701. Definitions

A. As used in the regulations, the following terms have the meaning described below.

* * *

Affiliate Any person who directly or indirectly controls, is controlled by, or is under common control of another person.

* * *

Person Any individual, partnership, association, joint stock association, trust, corporation, or other business entity whether incorporated or not.

* * *

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 26:728 (April 2000), LR 29:

Chapter 21. Licenses and Permits

§2101. General Authority of the Board and Division

A. The board and/or the division shall have the authority to call forth any person who, in the board and/or division's opinion, has the ability to exercise influence over a licensee, permittee, applicant or the gaming industry, and such person shall be subject to all suitability requirements. In the event a person is found unsuitable, then no licensee, permittee or applicant shall have any association or connection with such person. No licensee, permittee or applicant shall have any association or connection with any person that has had an application for a license or permit denied or had a license or permit revoked.

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 26:732 (April 2000), LR 29:

Chapter 23. Compliance, Inspections, and Investigations

§2325. Imposition of Sanctions

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

4209	Approval of New Electronic Gaming Devices	5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1321 (June 2000), amended LR 27:225 (December 2001), LR 28:1028 (May 2002), LR 29:

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 21. Applications; Suitability, Permitting and Licensing

§2101. General Provisions

A. The board and/or division shall have the authority to call forth any person who, in the board and/or division's opinion, exercises influence over the Casino Operator, Casino Manager, a Permittee, an Applicant or the gaming industry, and such person shall be subject to all suitability requirements. In the event a person is found unsuitable, then no Casino Operator, Casino Manager, Permittee or Applicant shall have any association or connection with such person. No Casino Operator, Casino Manager, Permittee or Applicant shall have any association or connection with any person that has had an application for a license or permit denied or had a license or permit revoked.

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 25:1907 (October 1999), LR 29:

Chapter 41. Enforcement Actions

§4103. Enforcement Actions of the Board

- A. - B. ...
- C. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

4209	Approval of New Electronic Gaming Devices	5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), amended LR 26:2307 (October 2000), LR 27:2255 (October 2001), LR 28:344 (February 2002), LR 28:1029 (May 2002), LR 29:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A. New and Renewal Applications

1. All applications for a license shall be submitted on forms provided by the division and mailed to: Louisiana State Police, Gaming Enforcement Section, Video Gaming Division, at the address provided by the division.

2. - 15. ...

B. Requirements for Licensing

1. - 3.b. ...

c. If a licensee fails to file a complete renewal application on or before forty five days prior to the license expiration date, the division may assess a civil penalty of \$250 for the first violation, \$500 for the second violation and \$1000 for the third violation.

4. The appropriate annual fee shall be paid by all licensees regardless of the expiration date of the license on or before July 1 of each year.

5. If a renewal application has not been filed with the division on or before close of business on the date of expiration, the license is expired, and a new application, along with all appropriate fees, shall be required to be filed.

B.6. - D.7. ...

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, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 17. General Provisions

§1701. Definitions

A. As used in the regulations, the following terms have the meaning described below.

Affiliate Any person who directly or indirectly controls, is controlled by, or is under common control of another person.

Person Any individual, partnership, association, joint stock association, trust, corporation, or other business entity whether incorporated or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.; 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 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 26:1317 (June 2000), LR 29:

Chapter 21. Licensees and Permits

§2101. General Authority of the Division

A. The board and/or division shall have the authority to call forth any person who, in the board and/or division's opinion, exercises influence over a licensee, permittee,

applicant or the gaming industry, and such person shall be subject to all suitability requirements. In the event a person is found unsuitable, then no licensee, permittee, or applicant shall have any association or connection with such person. No licensee, permittee, or applicant shall have any association or connection with any person that has had an application for a license or permit denied or had a license or permit revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.; 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 19:1176 (September 1993), amended LR 21:702 (July 1995), LR 29:

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

4209	Approval of New Electronic Gaming Devices	5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 26.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Gaming Control Board, IR 26:1318 (June 2000), LR 27:2255 (December 2001), LR 28:1029 (May 2002), LR 29:

Chapter 33. Surveillance and Security

§3305. Surveillance and Division Room Requirements

A. There shall be, for the exclusive use of division agents and for the use by employees of the riverboat gaming operation, rooms approved by the division for monitoring and recording purposes. The room for the exclusive use of the division shall be designated the division room. The room for the use of the employees of the riverboat gaming operation shall be designated the surveillance room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.; 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 27:1559 (September 2001), LR 29:

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 adopting LAC 42:VII, XIII.1701, VII, IX, XIII.2101, VII, XIII.2325, XI.2405, XIII.3305 and IX.4103.

It is accordingly concluded that adopting LAC 42:VII, XIII.1701, VII, IX, XIII.2101, VII, XIII.2325, XI.2405, XIII.3305 and IX.4103 would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;

3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed Rules, through December 10, 2002, to 39 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Definitions, General Provisions/Authority of the Division, Imposition of Sanctions, Application and License, Surveillance and Division Room Requirements, Enforcement Actions of the Board

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on revenue collections is anticipated. A penalty has been added to the penalty schedule contained in LAC 42:VII, XIII.2325 and IX.4103 for violation of Section 4209, however the number of penalties which may be assessed for violation of Section 4209 is indeterminable although expected to be minimal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Costs will be incurred by riverboat licensees intending to construct landside surveillance facilities pursuant to proposed amendments to LAC 42:XIII.3305, however the rule change does not cause increased costs but rather allows licensees to incur costs at their discretion.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0211#081

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Child Care Assistance Programs CIncentive Bonuses
(LAC 67:III.5102 and 5107)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance.

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, funds from Louisiana's Temporary Assistance for Needy Families (TANF) Block

Grant were appropriated for improving the quality of low-income child care. With this goal in mind, the agency intends to increase the incentive bonus paid to Class A providers who attain National Association for the Education of Young Children (NAEYC) accreditation. Attaining and maintaining accreditation by NAEYC is a costly, time-consuming, and demanding endeavor for most Class A providers. The agency intends to increase the bonus from its current 10 percent to 20 percent of all child care payments made the prior quarter, in order to encourage more Class A providers to become accredited and to maintain their accreditation.

Additionally, the agency is offering an incentive bonus to Family Child Day Care Home (FCDC) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The goal is to increase the quality of child care by encouraging FCDC providers to participate in the DOE Child and Adult Care Food Program. Adherence to this program's requirements will ensure the provision of nutritious meals to children as the program requires meal plans, designated serving times, and strict record keeping of meals and attendance by the FCDC providers. Program inspectors will monitor operation and compliance with program rules through home visits.

These changes were effected by Declaration of Emergency effective October 1, 2002. Authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

A final Rule published in the June 20, 2002 issue of the Louisiana Register amended Subchapter B, §5102. By failing to show the definitions for Full-Time Care and Part-Time Care, the definitions have been effectively removed from LAC 67:III beginning July 1. (Rules promulgated by the Office of Family Support are effective the first of the month following the publication of the final Rule, unless otherwise stated within the Rule.) Therefore, these definitions are being repromulgated through this Notice of Intent.

Title 67
SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter B. Child Care Assistance Program

§5102. Definitions

* * *

Full-Time Care Authorized child care calculated to be 30 or more hours per week that is paid in units of days with a maximum of 22 days per month.

* * *

Part-Time Care Authorized child care calculated to be less than 30 hours per week, paid in units of hours (total per day may not exceed daily rate) up to a maximum of 129 hours per month.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:

§5107. Child Care Providers

A. - E.4. ...

F.1. Quality incentive bonuses are available to:

a. CCAP eligible Class A providers who achieve and maintain National Association for the Education of Young Children (NAEYC) accreditation. The bonus will be paid once each calendar quarter, and will be equal to 20 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

b. CCAP eligible Family Child Day Care Home (FCDC) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter, and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

2. These bonus amounts may be adjusted at the discretion of the Assistant Secretary, based upon the availability of funds.

G. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:

Family Impact Statement

1. What Effect Will This Rule Have on the Stability of the Family? This rule will have no effect on the stability of the family.

2. What Effect Will This Have on the Authority and Rights of Persons Regarding the Education and Supervision of Their Children? This rule will have no impact on a person's authority or rights concerning their child's education and supervision.

3. What Effect Will This Have on the Functioning of the Family? This rule may have a positive impact on family functioning by providing quality child care services to the children of these families.

4. What Effect Will This Have on Family Earnings and Family Budget? The rule should have no impact on the family earnings or budget.

5. What Effect Will This Have on the Behavior and Personal Responsibility of Children? Services targeting young children in child care facilities should improve with the accreditation of more Class A providers which could positively impact a child's behavior.

6. Is the Family or Local Government Able to Perform the Function as Contained in this Proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments by December 30, 2002, to the following: Ann S. Williamson, Assistant Secretary, Office of Family Support, Post Office Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 30, 2002, at the Department of Social Services,

A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Child Care Assistance
Programs C Incentive Bonuses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated costs of amending §5107 is \$378,862 for FY 02/03 and thereafter. Monies will be used to cover the cost of the Quality Incentive Bonus to Class A providers who attain National Association for the Education of Young Children (NAEYC) accreditation in the amount of \$114,500 and to Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program in the amount of \$264,362. The cost of publishing rulemaking is estimated to be \$160.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed Rule results in no costs to any persons or non-governmental groups.

Eligible Class A child care providers will benefit economically from the increase in the bonus they will receive by attaining NAEYC accreditation and the bonus being offered to FCDCH providers who participate in the DOE Child and Adult Care Food Program will benefit these providers economically as well. The estimated economic impact to providers is \$378,862 in incentive bonus monies.

There are no economic benefits to non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed actions will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0211#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

TANF Initiatives
(LAC 67:III.5561-5571, and 5533)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III, Subpart 15,

Chapter 55, §§5561, 5563, 5565, 5567, 5569, and 5571 as TANF Initiatives and to amend §5533.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature, the agency will adopt several new TANF Initiatives including, §5561 Child-Parent Enrichment Services Program, §5563 Substance Abuse Treatment for Needy Families, §5565 Family Strengthening and Healthy Marriages Program, §5567 Parental Involvement Services Program, §5569 Alternatives to Abortion Services Program, and §5571 Parenting/Fatherhood Services Program, for the purpose of developing and implementing family-strengthening initiatives designed to provide intervention and support services that will enable low-income parents to act in the best interest of their children. Additionally, the agency is amending §5533 Transportation Services Program, to make services aimed at overcoming transportation barriers available to low-income families. The original transportation program was available only to persons participating in a TANF Initiative program.

All programs have been effected by several Declarations of Emergency. Section 5561 was effected by an Emergency Rule signed September 1, 2002, and Section 5563 by an Emergency Rule signed September 10, 2002. The adoption of Sections 5565, 5567, 5569, and 5571 and the amendment to Section 5533 were effected by an Emergency Rule signed September 30, 2002.

Title 67

SOCIAL SERVICES

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

Chapter 55. TANF Initiatives

§5533. Transportation Services Program

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

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

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

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 29:

**§5561. Child-Parent Enrichment Services Program
Effective September 1, 2002**

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting programs at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver.

C. Eligibility for services is limited to needy families. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

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

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

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

§5563. Substance Abuse Treatment Program for Needy Families

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families to the extent that funds are available commencing June 1, 2002.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy

family includes a non-custodial parent, caretaker relative, or legal guardian who has earned income at or below 200 percent of the federal poverty level.

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

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

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

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

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

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

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

C. Eligibility for services is limited to needy families which consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who have earned income at or below 200 percent of the federal poverty level.

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

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

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

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

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

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

C. Eligibility for services is limited to non-custodial parents of minor children who have earned income at or below 200 percent of the federal poverty level.

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

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

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

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

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

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

C. Eligibility for services is limited to pregnant or potentially pregnant women, their male partners, and/or minor children whose earned income is at or below 200 percent of the federal poverty level.

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

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

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

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

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

B. These services meet the TANF goals to end the dependence of needy parents by promoting job preparation, work, and marriage, to prevent and reduce the incidence of

out-of-wedlock births and to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children, who have earned income at or below 200 percent of the federal poverty level.

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

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

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

Family Impact Statement

1. What Effect Will This Rule Have on the Stability of the Family? Implementation of this Rule should have a positive impact on family stability as it will provide intervention and support services to young children and their families that will enable low-income parents to act in the best interest of their children thereby contributing to the stability of the family.

2. What Effect Will This Have on the Authority and Rights of Persons Regarding the Education and Supervision of Their Children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What Effect Will This Have on the Functioning of the Family? This Rule should have a positive impact on family functioning by providing family members with various services designed to strengthen the family unit including non-medical substance abuse treatment, enrichment centers for parents and their children, legal services, crisis intervention and counseling, transportation services, and skills training for low-income fathers. Services such as these should foster secure child/family relationships leading to stable family functioning.

4. What Effect Will This Have on Family Earnings and Family Budget? The Rule will have no effect on family earnings and budget.

5. What Effect Will This Have on the Behavior and Personal Responsibility of Children? Services targeting young children such as enrichment centers, and providing children with continuous, quality access to both parents should positively impact the behavior and personal responsibility of the children.

6. Is The Family or Local Government Able to Perform the Function as Contained in this Proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through December 30, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed rule will be held on December 30, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working

days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: TANF Initiatives**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost of amending §§5533 and implementing the TANF Initiatives at §§5561 through 5571 is estimated to be \$11,247,886 for FY 02/03. The agency will enter into Memoranda of Understanding or contracts with state agencies and other entities to provide services for the programs and funds for these services will be allocated from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant to the specified entities. The minimal cost of publishing rulemaking is approximately \$400. The total increase in expenditures can be met with funds from Louisiana's TANF Block Grant. Future expenditures are subject to legislative appropriation.

There are no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Through interagency transfers and contracts, the various state and local governmental agencies and other entities detailed in the Notice of Intent will receive increased revenues totaling \$11,247,886 to be expended in the provision of services for the newly-implemented TANF Initiative programs and for expansion of the Transportation Services program

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These TANF Initiatives provide assistance in the form of services, therefore, there is no immediate cost or economic benefit to any persons or non-governmental groups. However, the programs have a long-term goal of improving the economic situations of the targeted families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0211#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Black Bass Regulations C Daily Take and Size Limits
(LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby advertises its intent to establish the following Rule on black bass (*Micropterus spp.*) on Poverty Point Reservoir, located north of the town of Delhi in Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations C Daily Take and Size Limits

A. - B. 3. ...

4. Poverty Point Reservoir (Richland Parish)

a. Size limit: 14 inch B 17 inch slot. A 14 B 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: five fish.

c. Possession Limit:

i. On water C Same as daily take.

ii. Off water C Twice the daily take.

*Maximum total length C the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with the mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR:14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments of the proposed Rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., Thursday, January 3, 2003.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Black Bass Regulations C Daily Take and Size Limits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule will have no implementation costs. Enforcement of the proposed Rule will be carried out using existing staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will have no effect on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Sport fishermen who fish in Poverty Point Reservoir will be affected by the proposed action. They will be able to retain only up to five largemouth bass in their daily creel. In addition, it will be illegal to keep or possess any black bass with a maximum length between 14 and 17 inches.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will have no effect on competition and employment in the private or public sector.

James L. Patton
Undersecretary
0211#053

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given January 20-24, 2003, 9:00 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is December 6, 2002. No applications will be accepted after December 6, 2002.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to December 6, 2002. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0211#074

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Request for Information Pertaining to Small Municipal Waste Combustion Units

Pursuant to the Clean Air Act Amendments of 1990 (CAAA), Sections 111 and 129, the Louisiana Department of Environmental Quality (LDEQ) must create a state plan that implements the emission guidelines specified in 40 CFR 60, Subpart BBBB, *Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999*, if there are such units within the state. This requirement, known as a 111(d) Plan, pertains in this case only to municipal combustion units that have the capacity to combust more than 35 tons per day, but less than 250 tons per day, of municipal solid waste and commenced construction on or before August 30, 1999. If the state fails to submit an approvable plan, the United States Environmental Protection Agency (EPA) will develop a federal plan according to 40 CFR 60.27 to implement the emission guidelines for small municipal waste combustion units.

LDEQ requests that each facility located in Louisiana with a small municipal waste combustion unit (permitted or unpermitted) provide a list identifying the kind of combustion system; make and model number; location, physical address, and UTM coordinates; and permit number, if applicable, and date. From this list of municipal waste combustion units, LDEQ will develop a 111(d) Plan or

submit a negative declaration to EPA Region VI, whichever is appropriate. Requested information should be mailed to Jim Orgeron, P.O. Box 82178, Baton Rouge, LA 70884-2178; sent by facsimile to (225) 765-0617; or e-mailed to James_o@deq.state.la.us. This information must be received no later than 4:30 p.m. on December 2, 2002.

James H. Brent, Ph.D.
Assistant Secretary

0211#052

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Intent to Conduct Restoration Planning Lafourche Parish Little Lake Oil Spill

Purpose

The Louisiana Oil Spill Coordinator's Office (LOSCO) as the trustee coordinator for the state of Louisiana, in consultation and agreement with the state natural resource trustees, namely the Louisiana Department of Environmental Quality (LDEQ), the Louisiana Department of Natural Resources (LDNR), the Louisiana Department of Wildlife and Fisheries (LDWF); and the federal natural resource trustees, namely the 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 April 6, 2002 discharge of crude oil from a pipeline operated by BP Oil Pipelines Company, over which such Trustees have jurisdiction, warrants conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On April 6, 2002, a pipeline, operated by BP Oil Pipelines Company, discharged an undetermined amount of crude oil into the coastal waters of Little Lake, Lafourche Parish, Louisiana. Accurate determinations of release volumes are difficult, but estimates provided by BP, LOSCO, LDEQ, and the U.S. Coast Guard indicate approximately 1,800 barrels. An undetermined amount of marsh, other habitats, and fauna inhabiting this area may have been exposed to crude oil as a result of this discharge. BP has been designated as the statutory Responsible Party (RP) for this incident pursuant to the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. 2701 *et seq.*

Little Lake and the adjacent areas are part of a shallow estuarine bay system characterized by soft organic sediment. Tidal amplitude is small, driven primarily by wind. Little Lake is bordered by extensive acreage of intermediate and brackish marsh, which is critical nursery habitat for numerous species and provides many other ecological services. The Little Lake area also includes bayous, channels, small islands, and submerged aquatic vegetation (grassbeds). Aquatic species present include, but are not limited to, white and brown shrimp, blue crabs, oysters and

estuarine and freshwater finfish. Wildlife species that may be present in the Little Lake area include, but are not limited to, resident and migratory birds, furbearers, marine mammals and sea turtles. Some of the species that may be present have threatened or endangered status.

Authorities

The trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. §§300.600 and 300.605. Pursuant to R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan, September 1995, describes state trust resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. The U.S. Department of the Interior, through the involvement of the U.S. Fish and Wildlife Service, is trustee for natural resources described within the National Contingency Plan, 40 C.F.R. §300.600(b)(2) and (3), which 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 of the Interior. In the case at hand, the trust resources that may be of concern are resident and 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 have made the following determinations required by 15 C.F.R. §990.41(a).

- The natural resource trustees have jurisdiction to pursue restoration pursuant to the Oil Pollution Act (OPA), 33 U.S.C. §2702 and 2706(c) and the Oil Spill Prevention and Response Act (OSPR), R.S. 30:2451, et seq. The trustees have further determined that the discharge of crude oil into the area of Little Lake on April 6, 2002, was an incident, as defined in 15 C.F.R. §990.30 and L.A.C. 43:XXIX.109.
- This incident was not permitted under state, federal or local law.
- The incident was not from a public vessel.
- The incident was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651, et seq.
- Natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The crude oil discharged contains components that may be toxic to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and or aquatic organisms may have been exposed to the oil from this discharge, and mortalities to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 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) and L.A.C. 43:XXIX.101 to proceed with preassessment. BP Oil

Pipelines Company, at the invitation of the trustees, agreed to participate in the preassessment, pursuant to 15 C.F.R. §990.14(c) and L.A.C. 43:XXIX.115.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by the 15 C.F.R. §990.42(a) and are providing notice pursuant to 15 C.F.R. §990.4 and L.A.C. 43:XXIX.123 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, although the extent of such injuries has not been fully determined at this time. The trustees base this determination upon data that is collected and analyzed pursuant to 15 C.F.R. §990.43 and L.A.C. 43:XXIX.119, which demonstrate that resources and services have been injured by this incident. Natural resources and natural resource services injured or lost as a result of the discharge and the response may include, but are not limited to, benthic communities, submerged aquatic vegetation (grassbeds), water quality, wetlands, fish and wildlife species, and recreational use opportunity.

Although response actions were pursued, the nature of the discharge and the sensitivity of the environment precluded prevention of some injuries to natural resources. The trustees believe that injured natural resources could return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible primary and compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to: replanting native wetland vegetation in appropriate areas, creation, enhancement or protection of marsh, creation, enhancement, or protection of oyster reef habitat, and creation of bird colony areas.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are marsh grass injury assessment studies to be used in conjunction with Habitat Equivalency Analysis to determine compensation for injuries to marsh vegetation and marsh services. Models, comparisons to observations of injury resulting from similar releases, or other methodologies are available for evaluating injuries to fauna.

Public Involvement

Pursuant to 15 C.F.R. §990.44(c) and L.A.C. 43:XXIX.135, the Trustees seek public involvement in restoration planning for this discharge, through public review of and comments on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft and Final Restoration Plans when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 Third Street, Suite 405, Baton Rouge, LA, 70801; phone (225) 219-5800 (Attn: Oil Spill/Gina Muhs Saizan).

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the State of Louisiana, DOI/USFWS, and NOAA,

pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and L.A.C. 43:XXIX.135, hereby provides BP Oil Pipelines Company, this Intent to Conduct Restoration Planning and invites their participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinator

0211#073

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Intent to Conduct Restoration Planning
Terrebonne Parish Mosquito Bay Oil Spill

Purpose

The Louisiana Oil Spill Coordinator's Office (LOSCO) as the trustee coordinator for the state of Louisiana, in consultation and agreement with the state natural resource trustees, namely the Louisiana Department of Environmental Quality (LDEQ), the Louisiana Department of Natural Resources (LDNR), the Louisiana Department of Wildlife and Fisheries (LDWF); and the federal natural resource trustees, namely the 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 April 5, 2001 discharge of natural gas and natural gas condensate by Williams Field Services Company (Williams), over which such Trustees have jurisdiction, warrants conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On April 5, 2001, a pipeline, owned and operated by Williams, discharged an undetermined amount of natural gas and natural gas condensate into the saltwater marsh on the northern bank of Mosquito Bay, Terrebonne Parish, Louisiana. Accurate determinations of release volumes are difficult, but estimates provided by Williams, LOSCO, LDEQ, and the U.S. Coast Guard range from 1,000 barrels to 3,000 barrels. Approximately 37 acres of saltwater marsh, other habitats and, potentially, fauna inhabiting this area may have been exposed to natural gas and natural gas condensate because of this discharge. Approximately an additional 53 acres of saltwater marsh, other habitats and, potentially, fauna were impacted due to response activities. Williams is the Responsible Party (RP) for this incident.

Mosquito Bay and the adjacent areas are part of a shallow estuarine bay system characterized by soft organic sediment. Tidal amplitude is small, driven primarily by wind. Mosquito Bay is bordered by extensive acreage of saltwater marsh, which is critical nursery habitat for numerous species and provides many other ecological services. The Mosquito Bay area also includes bayous, channels and small islands. Aquatic species present include, but are not limited to, estuarine and estuarine-dependent white and brown shrimp, blue crabs, oysters and finfish. Wildlife species that may be present in the Mosquito Bay area include, but are not limited to, resident and migratory birds, furbearers, marine

mammals and sea turtles. Some of the species that may be present have threatened or endangered status.

Authorities

The trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. §§300.600 and 300.605. Pursuant to R.S. 30:2460, the State of Louisiana Oil Spill Contingency Plan, September 1995, describes state trust resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. The U.S. Department of the Interior, through the involvement of the U.S. Fish and Wildlife Service, is trustee for natural resources described within the National Contingency Plan, 40 C.F.R. §300.600(b)(2) and (3), which 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 of the Interior. In the case at hand, the trust resources that may be of concern are resident and 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 have made the following determinations required by 15 C.F.R. §990.41(a).

- The natural resource trustees have jurisdiction to pursue restoration pursuant to the Oil Pollution Act (OPA), 33 U.S.C. §2702 and 2706(c) and the Oil Spill Prevention and Response Act (OSPR), R.S. 30:2451, et seq. The trustees have further determined that the discharge of natural gas and condensate into the area of Mosquito Bay on April 5, 2001, was an incident, as defined in 15 C.F.R. §990.30 and L.A.C. 43:XXIX.109.
- This incident was not permitted under state, federal or local law.
- The incident was not from a public vessel.
- The incident was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651, et seq.
- Natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The natural gas and condensate discharged contain components that may be toxic to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and or aquatic organisms may have been exposed to the oil from this discharge, and mortalities to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 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) and L.A.C. 43:XXIX.101 to proceed with preassessment. Williams, at the invitation of the trustees, agreed to participate in the

preassessment, pursuant to 15 C.F.R. §990.14(c) and L.A.C. 43:XXIX.115.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by the 15 C.F.R. §990.42(a) and are providing notice pursuant to 15 C.F.R. §990.4 and L.A.C. 43:XXIX.123 that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, although the extent of such injuries has not been fully determined at this time. The trustees base this determination upon data that is collected and analyzed pursuant to 15 C.F.R. §990.43 and L.A.C. 43:XXIX.119, which demonstrate that resources and services have been injured by this incident. Natural resources and natural resource services injured or lost as a result of the discharge and the response may include, but are not limited to, benthic communities, water quality, wetlands, fish and wildlife species, and recreational use opportunity.

Although response actions were pursued, the nature of the discharge and the sensitivity of the environment precluded prevention of some injuries to natural resources. The trustees believe that injured natural resources could return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible primary and compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to, replanting native wetland vegetation in appropriate areas, creation, enhancement or protection of marsh, creation of oyster reef habitat, and creation of bird colony areas.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are marsh grass injury assessment studies to be used in conjunction with Habitat Equivalency Analysis to determine compensation for injuries to marsh vegetation and marsh services. Models, comparisons to observations of injury resulting from similar releases, or other methodologies are available for evaluating injuries to fauna.

Public Involvement

Pursuant to 15 C.F.R. §990.44(c) and L.A.C. 43:XXIX.135, the Trustees seek public involvement in restoration planning for this discharge, through public review of and comments on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft and Final Restoration Plans when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 Third Street, Suite 405, Baton Rouge, LA, 70801; phone (225) 219-5800 (Attn: Oil Spill/Gina Muhs Saizan).

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the state of Louisiana, DOI/USFWS, and NOAA, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and L.A.C. 43:XXIX.135, hereby provides Williams Field Services

Company, this Intent to Conduct Restoration Planning and invites their participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinator

0211#064

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmers/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmers/Funeral Director exams on Saturday, January 18, 2003 at Delgado Community College, 615 City Park Ave., 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

0211#077

POTPOURRI

Department of Health and Hospitals Office of Management and Finance Division of Research and Development Office of Primary Care and Rural Health

Funding for Rural and Underserved Areas

Effective December 1, 2002, the Department of Health and Hospitals= Division of Research and Development, Office of Primary Care and Rural Health, will begin accepting letters of intent from applicants who are interested in applying for funding under the provisions of Act 162 of the 2002 First Extraordinary Session of the Louisiana Legislature. This funding is being made available to provide immediate financial assistance to rural and underserved parishes throughout the state to maintain, enhance or expand access to community-based primary and preventive health care services in these areas.

Major provisions of Act 162 include:

(1) limited funds to establish, expand or enhance primary and preventive health care services to persons in rural and underserved areas;

(2) funds to encourage primary health care providers to practice in local underserved or rural communities;

(3) matching funds for demonstration project(s) to establish new primary health services in local underserved communities or rural areas, provided such projects shall be required to secure other local or other grant funding; and

(4) matching funds for other grants to provide community-based health services to indigent or low-income persons.

Eligible applicants include public or non-profit health care provider organizations located in a rural and/or federally designated health professional shortage areas as identified in

Act 162. All interested applicants must submit a letter of intent prior to a completed application kit.

Primary care grant application kits used by the Department of Health and Hospitals will include the following major sections: project description, project plan and project budget. Sample application kits for review and comment will be available by November 15, 2002 and may be obtained by writing the Department of Health and Hospitals' Office of Primary Care and Rural Health, Post Office Box 2870, Baton Rouge, LA 70821-2870.

All letters of intent are due by close of business December 15, 2002. Subsequent completed application kits must be received by the Office of Primary Care and Rural Health, Post Office Box 2870, Baton Rouge, LA 70721-2870, by January 31, 2003, and award announcements will be made by February 28, 2003.

Applications for primary care grants will be competitive. The Department of Health and Hospitals will select from competing applications using the following evaluation criteria:

- \$ justification/need for the project degree of medically underserved in the proposed project area;
- \$ degree to which the project targets the medically underserved population identified in the needs assessment section of the proposal;
- \$ description of delivering and networking quality primary health services, including services for patients without the ability to pay;
- \$ verification and description of sound management and finance plans, including reasonable project budget where readiness and sustainability can be demonstrated;
- \$ assurance(s) regarding project success description of clinical performance and clinical outcome indicator;
- \$ degree of community-based support (match) for the project; and
- \$ applicant's previous experience in the delivery of primary care services.

Additionally, the proposal should follow the guidelines of the proposal kit. Should the number of requests under this provision exceed the available funds, the Department of Health and Hospitals reserves the right to prioritize requests based on the proposal's impact on the service area and/or the health professional shortage area's designation ratio.

Primary care grants awarded by the Department of Health and Hospitals may not exceed \$50,000 per grant award.

It should be noted that the provision of this potpourri is contingent upon the availability of funds.

David W. Hood
Secretary

0211#082

POTPOURRI

**Department of Health and Hospitals
Office of Public Health**

**Notice of Public Hearing Preventive Health
and Health Services Block Grant**

The Department of Health and Hospitals, Office of Public Health, will hold another public hearing to receive input from the public on the Louisiana Preventive Health and Health Services Block Grant as administered annually by the agency. The scheduled public hearing will take place on December 12, 2002 beginning at 11 a.m. in Room 511 at 325 Loyola Avenue, New Orleans, Louisiana. Copies of the grant may be obtained from Sylvia McKee, Administrative and Technical Support Services, Office of Public Health, 325 Loyola Avenue, New Orleans, LA. You may also contact Mrs. McKee by telephone at (504) 568-2952 for additional information.

David W. Hood
Secretary

0211#083

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
Berkshire Oil Company	Golden Meadow	L	Joe Nicole et al.	12	023528
Berkshire Oil Company	Golden Meadow	L	Rebstock-Esponge	1	023931
Crest Resources & Expl. Corp.	Wildcat So. LA	L	C. R.7 Richard	1	145439
Milton Galoob	Tullos Urania	S	Hardtner B SWD	3	990447
Rhonda K. Gill	Wildcat	M	Martin et al.	1	224174
J. C. Honeycutt	Monroe	M	Hay et al.	1	157935
G. M LaGrand	Wildcat	S	Lee	1	035989
Manursing Island Prod. Corp.	Mamou	L	Mamou SWD	2	(30)031753

James H. Welsh
Commissioner of Conservation

0211#035

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