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Executive Orders

EXECUTIVE ORDER MJF 02-07

Louisiana Domestic Terrorism Advisory Committee

WHEREAS, Executive Order No. MJF 2001-42, issued on September 21, 2001, established the Louisiana Domestic Terrorism Advisory Committee within the executive department, Office of the Governor;

WHEREAS, it is necessary to amend Executive Order No. MJF 2001-42 to expand the membership of the Committee and to change the reporting schedule of the Committee;

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: Section 3 of Executive Order No. MJF 2001-42 is amended to provide as follows:

The Committee shall submit periodic reports to the governor which address the issues set forth in Section 2 of this Order. The Committee shall submit a final detailed report to the governor which addresses these issues by April 4, 2003.

SECTION 2: Section 4 of Executive Order No. MJF 2001-42 is amended to provide as follows:

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

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

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

3. The assistant director of the Office of Emergency Preparedness, Military Department, Office of the Governor, or the assistant director's designee;

4. The secretary of the Department of Agricultural and Forestry, or the secretary's designee;

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

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

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

8. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

9. The president of the Louisiana Sheriff's Association, or the president's designee;

10. The president of the Louisiana Association of Chiefs of Police, or the president's designee;

11. The president of the Louisiana Fire Chiefs Association, or the president's designee;

12. The president of the Louisiana Association of Nationally Registered Emergency Medical Technicians, or the president's designee;

13. The president of the Louisiana Emergency Preparedness Association, or the president's designee;

14. The president of the Louisiana Municipal Association, or the president's designee;

15. The president of the Louisiana Police Jury Association, or the president's designee;

16. One (1) member of the Louisiana State Police Hazardous Materials Unit;

17. The chair of the Louisiana Homeland Security Committee of the Louisiana House of Representatives, or his designee;

18. One (1) sheriff representing one of Louisiana's sixty-four parishes, or the sheriff's designee;

19. One (1) at-large member representing local emergency management;

20. One (1) at-large member representing local public works departments;

21. One (1) at-large member representing the Louisiana Chemical Association;

22. One (1) at-large member who is an academic employee of a public university in the state of Louisiana; and

23. One (1) at-large member who is an academic employee of a private university in the state of Louisiana.

SECTION 3: All other sections, subsections, and paragraphs of Executive Order No. MJF 2001-42 shall remain in full force and effect.

SECTION 4: 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 18th day of April 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0205#001

EXECUTIVE ORDER MJF 02-08

Bond Allocation Louisiana Public Facilities 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 "the 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 Louisiana Public Facilities Authority has requested an allocation from the 2002 Ceiling to finance the acquisition of equipment for the manufacturing of plastic bags at a facility located at 751 Airline Highway, city of Kenner, 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 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	Louisiana Public Facilities Authority	Alpine Plastics, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2002, provided that such bonds are delivered to the initial purchasers thereof on or before July 26, 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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of April, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0205#003

EXECUTIVE ORDER MJF 02-09

Bond Allocation Louisiana Local Government Environmental Facilities and Community Development Authority

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

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2002 (hereafter "the 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 Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2002 Ceiling to finance the acquisition, construction, installation, and equipping of a sewerage disposal and processing facility to be located in the parish of Caddo, 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
\$6,500,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Bioset of Shreveport

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 July 26, 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of April, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0205#002

EXECUTIVE ORDER MJF 02-10

Office of Louisiana Quarter Launch Planning

WHEREAS, on May 30, 2002, the state of Louisiana will celebrate the historic minting and release into circulation of the Louisiana quarter;

WHEREAS, it is anticipated that the state of Louisiana, through the Office of the Governor, will receive monies conditionally donated for the purpose of paying the expenses associated with the Louisiana Quarter Launch celebration and its related events;

WHEREAS, the best interests of the citizens of the state of Louisiana will be served by creating an Office of Louisiana Quarter Launch Planning within the Office of the Governor to plan and administer the Louisiana Quarter Launch celebration and to accept and disperse monies conditionally donated to the state of Louisiana for the purpose of paying the expenses associated with the celebration;

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 Office of the Louisiana Quarter Launch Planning is established within the executive department, Office of the Governor (hereafter "Office").

SECTION 2:

A. The Office shall plan, administer, coordinate and/or direct all aspects of the Louisiana Quarter Launch celebration and its related events (hereafter "Celebration") as the director of the Office deems necessary and proper for the efficient and expedient administration of the Celebration.

1. The Office shall be empowered to receive and expend public monies, particularly monies conditionally donated to the state of Louisiana, through the Office of the Governor, Office of Louisiana Quarter Launch Planning, for paying the expenses of the Celebration (hereafter "donated funds").

2. The Office shall not deposit conditionally donated funds and/or monies in the State Treasury, see La. Const. Art. VII, §9(A)(1), but shall deposit such funds and/or monies in an escrow account of the Louisiana Department of Treasury for the use of the Office for any and/or all expenses of the Celebration and/or pursuant to the terms and conditions of the acts of donation.

C. The Office shall constitute a "similar agency" within the meaning of R.S. 39:1554(C); accordingly, the Office shall be exempted from making procurements in accordance with the provisions of R.S. 39:1551, et seq., when compliance is not practicable.

SECTION 3:

A. The Division of Administration shall perform the bookkeeping and/or accounting services of the Office.

B. In conjunction with the Division of Administration, the Louisiana Department of the Treasury shall create an escrow account within the Department of the Treasury for the deposit and segregation of donated funds for the use of the Office for any and/or all expenses of the Celebration.

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Office in implementing the provisions of this Order.

SECTION 5: This Order is effective upon signature and shall continue in effect until September 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 8th day of May, 2002.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0205#004

Emergency Rules

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary

Incorporation by Reference of Amendments to the CAA
(LAC 33:III.5122)(OS043E)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Department of Environmental Quality (department) to use emergency procedures to establish rules, and R.S. 30:2011, the secretary of the department hereby finds that imminent peril to the public welfare exists and accordingly adopts by reference into LAC 33:III.5122.A, EPA rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)," promulgated on April 5, 2002, in the *Federal Register*.

This action is necessary to ensure consistency between the state rule and the revised federal rule.

The 40 CFR 63 Subpart B provisions as currently incorporated into state rule require a major source with a source category for which MACT has not been promulgated by May 15, 2002, to submit a Title V permit application by May 15, 2002, which includes a case-by-case MACT determination. The 40 CFR 63 Subpart B revisions as noticed in the *Federal Register*/ Vol. 67/ No. 66/Friday, April 5, 2002 [16582-16611], require a facility to submit only a Part 1 permit application. A complete (Part 2) permit application will be submitted 24 months later. Title V permit applications are complex, and their completion and submittal by May 15, 2002, would put these regulated facilities at a competitive disadvantage with other similar facilities in the nation.

This Emergency Rule is effective on May 15, 2002, and shall remain in effect for a maximum of 120 days or until promulgation of final rule OS043*, whichever occurs first. Rule OS043*, which incorporates by reference this EPA rule, is expected to become final on May 20, 2002. For more information concerning OS043E, you may contact the Regulation Development Section at (225) 765-0399.

J. Dale Givens
Secretary

0205#039

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Racing Commission

Net Slot Machine Proceeds (LAC 35:III.5737)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953.B, and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective April 22, 2002, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to adopt this Rule to expand on the statutes involving slot machines housed at racing associations, specifically R.S. 27:353, R.S. 27:354 and R.S. 27:361, and specify certain provisions thereof.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing Chapter 57. Associations= Duties and Obligations

§5737. Net Slot Machine Proceeds

A. The commission, pursuant to R.S. 27:354, finds that it is in the best interests of licensed associations, breeders associations, horsemen, and the state that the annual payments provided for in RS. 27:361 be paid in monthly installments.

B. The definitions set forth in R.S. 27:353 are incorporated herein by reference.

C. Not later than the date on which an association installs slot machines at its facility, it shall open three separate checking accounts as provided for herein. One account shall be a control bank account into which not less than 18 percent of the net slot machine proceeds for the activity month shall be deposited in sufficient time to be distributed or disbursed not later than the 20th day of the following month as required by these rules. The association shall also open two distinct interest bearing accounts, one for thoroughbred purse proceeds and one for quarter horse purse proceeds, into which the association shall make its deposits for purse supplements totaling 15 percent of net slot machine proceeds and from which funds, including interest earned, such purse supplements shall be made available as provided by law and these rules.

D. While an association is conducting live racing, the monies due to be paid pursuant to R.S. 27:361.B.(4)(a) shall be made available monthly for use as purses prior to the 20th day of the month following the month in which they are earned, during the current race meeting.

E. While an association is not conducting live racing, the monies due to be paid pursuant to R.S. 27:361.B.(4)(a) shall be deposited in the appropriate breed account either:

1. for accrual until the first day of the next live race meeting conducted by that association for that breed, at which time such accumulated monies, including interest, shall be used to supplement appropriate purses during that race meeting; or

2. with prior written agreement of the Louisiana HBPA for reimbursement to the association for actual funds advanced to supplement purses at a preceding race meeting in anticipation of the revenue to be earned from slot machines. However, an association shall not be reimbursed except from proceeds earned during the same annual period during which it advanced the purse supplements.

F. The monies due to be paid by an association pursuant to R.S. 27:361.B.(4)(b) and (c) shall be remitted monthly to the appropriate breeders association and the monies due to be paid by an association pursuant to R.S. 27:361.B.(4)(a)(i) and (ii) shall be remitted monthly to the HBPA, prior to the 20th day of the month following the month in which they are earned.

G. Each racing association conducting slot machine gaming shall file with the commission a complete report, on a form acceptable to the commission, not later than the 20th day of each month, setting forth the amounts deposited and payments made from the net slot machine proceeds earned the preceding month, as well as payments for purses and payments to breeders associations and to the HBPA. Copies of those bank accounts required to be maintained by paragraph C of this rule shall be submitted to the commission along with the monthly report.

H. Each racing association, after conducting slot machine gaming for 12 months, shall file an annual report with the commission, on forms acceptable to the commission, not later than the 20th day of the following month, and on that date each following year, which report shall certify under oath by a responsible officer the association's compliance with all requirements under R.S. 27:361.B.(4) and under this rule. Each such 12-month period shall constitute an annual period for the purposes of this rule.

I. All records and reports pertaining to slot machines, including checking accounts, maintained by an association shall be subject to inspection, reporting procedures and audits by the commission. All records and reports on revenues and expenses from slot machines shall be included as part of the association's annual CPA opinion audit submitted to the commission.

J. Before receiving any payments provided by R.S. 27:361.B.(4)(b) or (c), the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission the schedule or formula and within a time period which it has established for the distribution of such funds. Any amendments or modifications to such distribution schedule or formula shall be filed with the commission within 30 days of its adoption by the Executive Committee. A true and complete copy of each such filing with the commission shall be delivered to each racing association and the filing shall so

certify delivery. Each Executive Committee shall also file a monthly report with the commission of revenue received, payments made, and the bank balance on hand along with a copy of the bank statement.

K. After the expiration of one year from the filing of its first distribution schedule or formula with the commission but within 20 days thereafter, and on that date each following year, the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission a report which shall certify under oath by a responsible officer the association's compliance with its applicable distribution schedule or formula and within a time period which it has established for the distribution of such funds.

L. An association shall publicly disclose its schedule for the distribution of funds for purse supplements to be made pursuant to R.S. 27:361.B.(4)(a). Excluding those funds statutorily dedicated to races restricted to accredited Louisiana breeds, the remaining funds shall be distributed proportionately according to the conditions of the races in which the remaining funds are used to insure parity among restricted and non-restricted races.

M. Whenever it appears to the executive director of the commission that a violation may have occurred, he shall furnish the apparent violator with a warning letter, sent by ordinary mail and by fax, affording the party 15 days from the date of the transmission of the letter to correct the violation.

N. If the apparent violation has not been timely corrected, the executive director, or his designee, shall within 10 days give written notice, by certified mail, to the party that its responsible officers are to appear before him for an informal conference to determine whether a violation has occurred and, if so, whether the violation can be corrected in the absence of imposing a fine or indefinitely suspending the license of the party, or refusing to allow the party to receive payments under this rule. Such informal hearing shall be conducted in accordance with the Administrative Procedures Act applicable to such hearing.

O. If the executive director, or his designee, determines after affording the party an opportunity for an informal conference that a violation has occurred and that a fine, license suspension, or other appropriate action should be taken, he shall file a *rule to show cause* with the commission for the notified party and its responsible officers to appear before the commission and show cause why disciplinary action or sanctions should not be imposed. The *rule to show cause* shall be forwarded by certified mail and by fax to the party. The cited party shall have 10 days from transmission, excluding holidays and weekends, to file with the commission a written response, under oath, and to submit a list of the names and addresses of all witnesses it desires to be subpoenaed for the hearing, including those to produce documents and other things. The failure to timely file a verified response may, in the commission's discretion, result in the cited party being refused to participate in the hearing on the *rule to show cause*.

P. At the conclusion of the hearing, the commission shall take action appropriate to the violation if it finds that one has occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:353, R.S. 27:354 and R.S. 27:361.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:

Charles A. Gardiner III
Executive Director

0205#017

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Board of Certification for Substance Abuse Counselors**

Fees (LAC 46:LXXX.501)

The Board of Certification for Substance Abuse Counselors has adopted the following Emergency Rule effective April 13, 2002, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B, and the Substance Abuse Counselor Certification Act, R.S. 37:3371 et seq., and it shall be in effect for the maximum period allowed under law or until adoption of the Rule, whichever occurs first. The proposed Emergency Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Due to imminent peril to the health, safety and welfare of the public, the members of the Board of Certification for Substance Abuse Counselors have adopted this Emergency Rule amendment to increase fees to alleviate financial problems immediately facing the board. Such increases in fees do not exceed the "cap" established in the Substance Abuse Counselor Certification Act, R.S. 37:3377.A, as enacted by the state legislature. As a professional regulatory board, the Board of Certification for Substance Abuse Counselors must function totally on self-generated fees and is financially autonomous from the state.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXX. Substance Abuse Counselors

Chapter 5. Fees and Board Documents

§501. Fees

A. - C. ...

D. In accordance with R.S. 37:3377.A of the Substance Abuse Counselor Certification Act. the fee schedule shall be as follows.

Application	\$100
Initial Certification	\$200
Certification by Reciprocity from Another State	\$200
Renewal of Certification	\$200
Late Fee for Renewal of Certification	\$150
Reinstatement of Certification	\$200
Appeal/Evaluation of Exam Decision	\$150
Registration as Counselor in Training or Prevention Specialist in Training	\$ 75
Renewal of Registration as Counselor in Training or Prevention Specialist in Training	\$ 75
Registration as Registered Counselor Supervisor	\$150
Renewal of Registration as Registered Counselor Supervisor	\$150
Registration as Approved Training Institution	\$200
Renewal of Registration as Approved Training Institution	\$200

Registration as Approved Education Provider	\$200
Renewal of Registration as Approved Education Provider	\$200
Registration for Approved Educational Provider Single Course	\$ 60
Registration as Approved Institution of Higher Education	\$200
Renewal of Registration as Approved Institution of Higher Education	\$200
Late Fee for Renewal of Any Registration	\$150

E. All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:628 (May 1993), LR 25:1241 (July 1999), LR 28:

Ellen R. Calvert
Chairman

0205#007

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Fees (LAC 46:LIV.501)

The Louisiana State Board of Physical Therapy Examiners has adopted the following Emergency Rule effective April 25, 2002, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B, and the Physical Therapy Practice Act, R.S. 37:2401 et seq., and it shall be in effect for the maximum period allowed under law or until adoption of the Rule, whichever occurs first. The proposed Emergency Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Due to imminent peril to the health, safety and welfare of the public, the Members of the Louisiana State Board of Physical Therapy Examiners has adopted this Emergency Rule to increase fees to alleviate financial problems facing the Board. Such increases in fees do not exceed the "cap" established in the Physical Therapy Practice Act, R.S. 37:2406, as amended by the State Legislature in 2001. As a professional regulatory board, the Louisiana State Board of Physical Therapy Examiners must function totally on self-generated fees and is financially autonomous from the state.

Title 46

Professional and Occupational Standards

Part LIV. Physical Therapy Examiners

Chapter 5. Fees

§501. Fees

A. The board may collect the following fees.

1. Application fee	\$200
2. Reinstatement fee	\$ 75
3. Annual Renewal fee	\$115
4. License verification	\$ 40
5. Duplicate wall license fee	\$ 50
6. Duplicate wallet license fee	\$ 20

B. The annual renewal fee provided in this Rule shall be received by the Board office prior to January 1 of each year.

C. If the annual renewal fee is received by the Board office on or subsequent to January 1, the applicant shall apply for reinstatement pursuant to Rule 167 and shall pay the renewal fee and the reinstatement fee.

D. The Board may assess reasonable charges with regards to administrative business expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 13:750 (December 1987), LR 15:392 (May 1989), LR 17:667 (July 1991), LR 18:963 (September 1992), LR 21:396 (April 1995), LR 28:

Pat Adams
Chairman

0205#028

DECLARATION OF EMERGENCY

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 Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

Prior law, R.S. 46:153.3, authorized coverage and reimbursement of prescription drugs in the Medicaid Program and established the Medicaid Drug Program Committee. R.S. 46:153.3.B and C allowed the Department of Health and Hospitals to limit reimbursement for multi-source prescription drugs in accordance with state and federal law; but mandated the department to provide reimbursement for any drug prescribed by a physician that, in his professional judgment and within the lawful scope of his practice, was considered appropriate for the diagnosis and treatment of the patient; and also prohibited the department from establishing a drug formulary that restricted, by any prior or retroactive approval process, a physician's ability to treat a patient with a prescription drug that had been approved and designated as safe and effective by the Food and Drug Administration.

In recognition of the need to ensure that the state delivers a medical assistance prescription drug program which is both cost effective and prudently administered, the Louisiana Legislature enacted Act 395 of the 2001 Regular Session to amend R.S. 46:153.3.B.(2)(a) which states "The Department may establish ... or any other process or combination of processes that prove to be cost-effective in the Medical Assistance Program." In addition, the Act created the

Medicaid Pharmaceutical and Therapeutics Committee and abolished the Medicaid Drug Program Committee.

As authorized by Act 395, the department proposes to implement a prior authorization process with a preferred drug list for certain designated drugs covered under the Pharmacy Benefits Management Program. This action is necessary in order to avoid a budget deficit in the Medical Assistance Program. It is anticipated that savings from the prior authorization process will begin to accrue in the calendar quarter after the process is implemented. It is estimated that implementation of this Emergency Rule in conjunction with other drug cost containment actions will decrease projected expenditures in the Prescription Drug Program by approximately \$61,000,000 for state fiscal year 2002-2003.

Emergency Rule

Effective June 10, 2002, 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 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 and Preferred Drug List

A preferred drug list (PDL) shall be established by selected therapeutic classes for those drugs for which prior authorization is not required. Drugs in these classes that are not included on the PDL shall require 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 within 24 hours of receipt of a prior authorization request by either telephone, mail or electronic communication. In emergency situations, providers may dispense at least a 72 hour supply of medication as mandated by LA 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 subject to the prior authorization. The composition of and appointment to the Pharmaceutical and Therapeutics Committee complies with LA 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);
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 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 at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0205#067

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

Child Welfare Programs (LAC 67:III.5549)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt TANF Initiatives at §5549 effective April 12, 2002. This Emergency Rule will remain in effect for a period of 120 days.

Under the provisions of the Temporary Assistance to Needy Families (TANF) Block Grant, a state may expend its Maintenance of Effort (MOE) funds on a variety of services,

benefits, and supports that help families become self-sufficient. To effectuate the use of its MOE funds, the Office of Family Support will provide support to the Office of Community Services for programs intended to further the goals and intentions of the federal TANF Block Grant. Emergency rulemaking is necessary as failure to meet MOE requirements could result in the loss of MOE funding which in turn could result in the loss of the TANF Block Grant or severe fiscal penalties which would result in a loss or reduction of services funded by the TANF Block Grant.

Title 67

SOCIAL SERVICES

PART III. Office of Family Support

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

Chapter 55. TANF Initiatives

§5549. OCS Child Welfare Programs

A. OCS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, in order to collaborate with it to identify and serve children in needy families who are at risk of abuse or neglect. The methods of collaboration include:

1. Child Protection Investigation (CPI)Ccomprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent or other adult caretaker relative, 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 ServicesCcomprises services to a child or children and their parents or adult relative caretakers, 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, 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), 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:

Gwendolyn P. Hamilton
Secretary

0205#027

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Substance Abuse Treatment Program
(LAC 67:III.1291 and 5391)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, to adopt §1291 in the Family Independence Temporary Assistance Program (FITAP) and §5391 in the Kinship Care Subsidy Program (KCSP).

These regulations are implemented pursuant to the Temporary Assistance for Needy Families (TANF) Initiatives provided for in Act 12 of the 2001 Regular Session of the Louisiana Legislature.

This Emergency Rule is effective May 27, 2002, and will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of January 26, 2002, since it is effective for 120 days and will expire before the final rule takes effect. (The final rule will be published in June 2002.)

Whereas it has been shown that providing substance abuse treatment to drug and/or alcohol-dependent individuals can lead to more responsible behavior which contributes to educational training and job preparation and promotes self-sufficiency, the agency proposes to continue the necessary funding for payment for the cost of substance abuse screening, assessment, testing, and non-medical treatment of KCSP and FITAP recipients and certain post-KCSP and FITAP recipients. Funding for these services was previously provided for by the Department of Health and Hospitals, Office for Addictive Disorders. Medical services provided during treatment will continue to be paid for by the Department of Health and Hospitals, Office for Addictive Disorders.

Authorization for emergency action is also contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature.

**Title 67
SOCIAL SERVICES**

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§1291. Substance Abuse Treatment Program

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 FITAP recipients as well as certain post-FITAP recipients.

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, specifically, family members who receive FITAP benefits. A needy family member who loses eligibility for FITAP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of FITAP benefits.

D. Services are considered non-assistance by the agency.

E. A pilot project will be conducted 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. OAD will assume responsibility for the screening and referral process provided below.

1. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs or abuse of or dependency on alcohol. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education and rehabilitation process. An illegal drug is a controlled substance as defined in R.S. 40:961, Controlled Dangerous Substance, et seq..

2. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs or abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorder (OAD).

a. When the screening process indicates that there is reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, the

recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse or dependency on alcohol received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs and not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. Child care and transportation costs required for participation in the substance abuse screening, testing, education, and rehabilitation program will be paid by the Office of Family Support.

4. If residential treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

5. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following.

a. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

b. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

c. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

d. A subsequent failure to cooperate will result in case closure until the recipient cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, testing, or satisfactory participation for two weeks in an education and rehabilitation program.

6. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for FITAP cash benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

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.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

**Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance**

Subchapter D. Special Initiatives

§5391. Substance Abuse Treatment Program

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 KCSP recipients as well as certain post-KCSP recipients.

B. These services meet the TANF goal to end the dependence of needy families on government benefits by providing them 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, specifically, family members who receive KCSP benefits. A needy family member who loses eligibility for KCSP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of KCSP benefits.

D. Services are considered non-assistance by the agency.

E. A pilot project will be conducted 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. OAD will assume responsibility for the screening and referral process provided below.

1. Compliance. All recipients of KCSP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education, and rehabilitation process.

2. Screening and Referral Process. All applicants for and recipients of KCSP age 18 and over will be screened for the use of or dependency on illegal drugs or abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD). An illegal drug is a controlled substance as defined in R.S. 40:961, Controlled Dangerous Substance, et seq.

a. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, the

recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse of or dependency on alcohol, received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs or not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. If inpatient treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

4. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the recipient until he/she cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, substance abuse testing, or satisfactory participation for two weeks in an education and rehabilitation program.

5. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for KCSP benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free.

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.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn P. Hamilton
Secretary

0205#053

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2002 Spring Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters, the Wildlife and Fisheries Commission does hereby set the 2002 Spring Inshore Shrimp Season to open as follows:

Zone 1, that portion of Louisiana's inshore waters from the Mississippi state line to the eastern shore of South Pass of the Mississippi River, to open at 6 a.m., May 27, 2002, except the open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D) which shall open at 6 a.m., May 16, 2002; and

Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, as well as that portion of the State's Territorial Waters south of the Inside/Outside Shrimp Line as described in R.S. 56:495 from the Atchafalaya River Channel at Eugene Island as delineated by the River Channel buoy line to Freshwater Bayou, all to open at 6 a.m., May 16, 2002; and

Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas state line, to open at 6 a.m., May 27, 2002.

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

Thomas M. Gattle, Jr.
Chairman

0205#036

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Deer and Elk Importation (LAC 76:V.117)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of LSA Const. Art. IX Sec. 7; LSA 56:6(10), (13) and (15) and 20 and 171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following Emergency Rule. This action supercedes LAC 76:V.117.

This Rule is effective May 2, 2002 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

The reasons for the promulgation of this Declaration of Emergency are as follows.

Chronic Wasting Disease (CWD) is a neurodegenerative disease that has been found in captive and free-ranging deer and elk herds in eight states. Bovine tuberculosis (TB) occurs in captive and free ranging deer in Michigan. In 1998, the LWFC prohibited importation of white-tailed deer from Wyoming and Colorado, states with endemic CWD in certain populations of free-ranging deer. Importation from Michigan was also prohibited due to the occurrence of TB. Since that time, cases of CWD have been found in at least 21 captive deer or elk herds in Colorado, South Dakota, Oklahoma, Nebraska, Montana, Kansas, and the Canadian province of Saskatchewan. In addition to the CWD cases in captive deer and elk, and those in the CWD endemic area of southeastern Wyoming and north-central Colorado, the disease has been found in free-ranging deer in Nebraska, South Dakota, and Wisconsin. The cases in Wisconsin, found in March 2002, are the first east of the Mississippi River. Recently, CWD has been found in free-ranging deer in western Colorado. These are the first CWD cases found outside of the endemic area in the northeastern part of that state. Several of the CWD outbreaks in wild deer appear to be associated with captive elk herds.

CWD is a poorly understood disease related to other transmissible spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) of cattle, Creutzfeld-Jakob Disease of humans, and scrapie of sheep. Mutant proteins, called prions, are believed to be the infectious agent responsible for CWD. Current information suggests that the disease is limited to deer and elk, and is not naturally transmitted to livestock or humans. The means by which CWD is transmitted is not known, but it is probably transmitted from animal to animal. Maternal transmission from infected does to fawns is also thought to occur. There is no cure or treatment for CWD, and it is always fatal.

CWD is a particularly difficult disease to detect and control. The incubation period (time from which the animal is infected until it exhibits symptoms) is at least 18 months and may be as long as 3-5 years. Until symptoms appear, infected animals appear normal. Symptoms of CWD include weight loss, excessive salivation, depression, dehydration, general weakness, and behavioral changes. There is no live animal test for CWD. Examination of brain tissue from dead animals is the only means of positive diagnosis. The agent that causes CWD is extremely resistant to traditional disinfection techniques. It is not known how long the infectious agent can persist in the soil or other media, but some evidence indicates that the infectious agent can persist for an extended period of time.

Interstate and intrastate movement of infected captive deer and elk can quickly spread CWD beyond those areas where it already occurs. Strong circumstantial evidence suggests that CWD outbreaks in free ranging deer in Colorado, Nebraska, and South Dakota are related to captive elk enclosures.

Trade in captive deer and elk lend itself to the spread of CWD. Deer and elk are frequently transferred from one owner to another. These movements are often from state to state. For example, at least 109 elk movements which occurred during 1982-97, were indirectly or directly traced back to a single CWD positive captive elk herd in Montana.

Elk from this herd were sent to at least 12 states and 2 Canadian provinces. Elk from a CWD infected Colorado herd were sent to 19 states and introduced into 45 herds. A CWD outbreak in Saskatchewan, Canada that affected 39 elk herds was traced back to a single elk from South Dakota. Exotic animal auctions are another source of concern. At these auctions, a large number of animals come into contact with each other and then are dispersed across the United States. Accurate and verifiable records of where animals have been, and what animals they have been in contact with, are seldom available. In some states, including Louisiana, captive deer and elk may be introduced into large enclosures containing wild deer. Once introduced into large, often heavily vegetated enclosures, the animals usually cannot be monitored or re-captured. Enclosures are not escape-proof and escapes or fence to fence contact with free ranging wild deer can be expected.

The Louisiana Department of Agriculture and Forestry has licensed approximately 120 alternative livestock farms that average about 12 acres in size and contain an average of about 10-20 deer each. In addition, 15 supplemented hunting preserves that are at least 300 acres each are licensed by LDAF. These supplemented hunting preserve enclosures may contain both released deer and native wild deer. The Louisiana Department of Wildlife and Fisheries licenses about 115 non-commercial game breeders that possess deer. The deer and elk farming industry in Louisiana is small, and as a whole, not highly dependent on imported deer. In 2000, the LDAF issued only 10 importation permits involving 57 deer.

In contrast, recreation associated with wild deer and wild deer hunting has significant economic impact in Louisiana. In 2001, there were approximately 172,000 licensed deer hunters in Louisiana. There were also an undetermined number that were not required to have a license (under age 16 or over age 60). The *1996 National Survey of Fishing, Hunting and Wildlife Associated Recreation* reports that deer hunting in Louisiana has an economic impact of \$603,909,581 per year and provides over 8,500 jobs. Many landowners receive income from land leased for deer hunting. Recreation has been the driving force maintaining rural and timberland real estate values during the last several years.

The cost of a CWD outbreak in Louisiana could be substantial. State government could incur considerable costs in order to effectively contain and monitor a CWD outbreak. By way of example, the Wisconsin Department of Natural Resources spent approximately \$250,000 for monitoring and containment during the first 49 days of the outbreak in that state. The Colorado Division of Wildlife has spent about \$1,000,000 to date for CWD monitoring and containment. They are requesting an additional \$2,300,000 in FY 2002/03 to address CWD outbreaks in their state.

In addition to the cost to government, the private sector would be affected by a CWD outbreak in Louisiana. Interest in deer hunting would likely decline if significantly lower deer populations result. Additionally, hunter concerns regarding contact with, or consumption of, infected animals could also reduce deer hunting activity. Lower hunting lease values and fewer hunting related retail purchases would therefore be likely. In Wisconsin, Department of Natural Resources personnel report that a significant decline in land

value in the CWD affected area has already occurred. A significant reduction in deer hunting activity could also have deleterious effects on agriculture, horticulture, and forestry resulting from increased deer depredation of crops, ornamentals, and trees if the reduction in hunting mortality is not offset by CWD mortality.

The primary means of containing a CWD outbreak involves depopulating an area surrounding the infection site(s). By way of example, Wisconsin Department of Natural Resources personnel and landowners are killing 500 deer in a 415 square mile area for testing. If more infected deer are found, a depopulation program will likely be instituted. In Colorado, the Division of Wildlife is killing as many deer and elk as possible in a 5-mile radius of the CWD outbreak in western Colorado. These types of depopulation efforts are offensive to wildlife agencies, hunters, and other citizens. However, this is the only available means to control CWD outbreaks in wild free-ranging deer.

In recognition of the CWD threat, and lack of a coordinated eradication/control effort, the United States Department of Agriculture enacted a declaration of emergency in September 2001 to authorize funding of a CWD indemnification and eradication program in the United States. Prohibitions on the importation of deer and elk have been instituted in a number of states. Texas and Florida recently suspended importation of deer and elk. Other states, including Wisconsin and Utah have developed rules that require that imported deer and elk must originate from herds that have been certified free of CWD for at least 5 years. However, because few, if any, herds in the United States can meet that standard, this rule is effectively an importation prohibition.

The lack of a live animal test to detect CWD, an incubation period measured in years, and insufficient animal records make it extremely difficult to prevent the introduction of CWD infected deer and elk into Louisiana under the current importation rules. The recent deer and elk importation ban in Texas, one of the largest buyers of deer, may result in "dumping" of deer into Louisiana and other states. Introduction of CWD into Louisiana could have wide-ranging and significant negative impacts on the state's wild deer resources and economy. For these reasons and those outlined above, the Louisiana Wildlife and Fisheries Commission believes that an immediate prohibition on the importation of deer and elk into Louisiana is warranted. This prohibition will remain in effect until no longer necessary.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§117. Deer and Elk Importation

A. Definitions

White-Tailed Deer Any animal of the species *Odocoileus virginianus*.

Mule Deer or Black-Tailed Deer Any animal of the species *Odocoileus hemionus*.

Elk or Red Deer Any animal of the species *Cervus elaphus*.

B. No person shall import, transport or cause to be imported or transported live white-tailed deer, mule deer, or black-tailed deer (hereinafter "deer"), into or through the state of Louisiana. No person shall import, transport or cause

to be imported or transported, live elk or red deer (hereinafter "elk") into or through Louisiana in violation of any Imposition of Quarantine by the Louisiana Livestock Sanitary Board. Any person transporting deer or elk between licensed facilities within the state must notify the Department of Wildlife and Fisheries and provide information as required by the Department prior to departure from the source facility and again upon arrival at the destination facility. A transport identification number will be issued upon providing the required information prior to departure. Transport of deer or elk between licensed facilities without a valid transport identification number is prohibited. Notification must be made to the Enforcement Division at 1800-442-2511. All deer or elk imported or transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with LWFC and Department of Wildlife and Fisheries rules and regulations.

C. This Rule shall be in effect until May 30, 2005.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1140 (June 1998), repromulgated LR 24:1325 (July 1998), amended LR 28:

Thomas M. Gattle, Jr.
Chairman

0205#041

DECLARATION OF EMERGENCY

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

Disposal of Illegal Live Deer and Elk (LAC 76:V.121)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, and under the authority of LSA Const. Art. IX Sec. 7; LSA 56:6(10), (13) and (15) and 20 and 171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following Emergency Rule.

This Rule is effective May 2, 2002 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

The reasons for promulgation of this Declaration of Emergency are as follows.

The disposition of confiscated live deer and elk is a problem with significant biological and sociological ramifications. Verification of the place of origin, history of contacts with other animals, and the route of translocation for illegally possessed animals is difficult to obtain. Improper handling of these animals can have serious consequences for Louisiana's native deer herd and legally held captive deer and elk.

LDWF's Nuisance Deer Complaint records indicate that 28 percent of all complaints in 2000 were problems concerning illegally possessed deer, predominantly fawns. The incidence of deer and elk/red deer confiscation (possibly in large numbers) can be expected to increase with the

implementation of a state ban on their importation into or transport through Louisiana.

Currently, the Nuisance Deer Management Policy states that confiscated deer will be "disposed of in the most appropriate fashion." Typically adult deer are sent to a willing LDWF-authorized game breeder (if one can be found). "Orphaned" fawns are taken to LDWF-permitted rehabilitators and released back into the wild at the appropriate time. Injured or sick animals with a prognosis for low survivability are euthanized by LDWF according to AVMA guidelines. At the time this Nuisance Deer Policy was developed, social issues may have to some degree, overridden biological concerns. However, current conditions dictate that biological issues take precedent.

The proliferation of deer farming in Louisiana and nationwide has resulted in an increase in interstate and intrastate movement of pen-raised deer and elk. This development in conjunction with the emergence of serious diseases such as Chronic Wasting Disease (CWD) and Bovine Tuberculosis (TB), have focused attention on the proper disposition of deer and elk with uncertain histories.

Chronic Wasting Disease (CWD) is a neurodegenerative disease that has been found in captive and free-ranging deer and elk herds in eight states. Bovine tuberculosis occurs in captive and free ranging deer in Michigan. In 1998, the LWFC prohibited importation of white-tailed deer from Wyoming and Colorado, states with endemic CWD in certain populations of free-ranging deer. Importation from Michigan was also prohibited due to the occurrence of TB. Since that time, cases of CWD have been found in at least 21 captive deer or elk herds in Colorado, South Dakota, Oklahoma, Nebraska, Montana, Kansas, and the Canadian province of Saskatchewan. In addition to the CWD cases in captive deer and elk, and those in the CWD endemic area of southeastern Wyoming and north-central Colorado, the disease has been found in free-ranging deer in Nebraska, South Dakota, and Wisconsin. The cases in Wisconsin, found in March 2002, are the first east of the Mississippi River. Recently, CWD has been found in free-ranging deer in western Colorado. These are the first CWD cases found outside of the endemic area in the northeastern part of that state. Some of the CWD outbreaks in wild deer and elk appear to be associated with outbreaks in captive deer and elk herds.

CWD is a poorly understood disease related to other transmissible spongiform encephalopathies such as Bovine Spongiform Encephalopathy (Mad Cow Disease) of cattle, Creutzfeldt-Jakob Disease of humans, and scrapie of sheep. Mutant proteins, called prions, are believed to be the infectious agent responsible for CWD. Current information suggests that the disease is limited to deer and elk, and is not naturally transmitted to livestock or humans. The means by which CWD is transmitted is not known, but it is probably transmitted from animal to animal. Maternal transmission from infected does to fawns is also thought to occur. There is no cure or treatment for CWD, and it is always fatal.

CWD is a particularly difficult disease to detect and control. The incubation period (time from which the animal

is infected until it exhibits symptoms) is at least 18 months and may be as long as 35 years. Until symptoms appear, infected animals appear normal. Symptoms of CWD include weight loss, excessive salivation, depression, dehydration, general weakness, and behavioral changes. There is no live animal test for CWD. Examination of brain tissue from dead animals is the only means of positive diagnosis.

The agent that causes CWD is extremely resistant to traditional disinfection techniques. It is not known how long the infectious agent can persist in the soil or other media, but some evidence indicates that the infectious agent can persist for an extended period of time. For example, after CWD deer were removed from an enclosure in Colorado, the topsoil was plowed under, the enclosure was disinfected, and no deer were reintroduced for one year. When deer were returned to that enclosure one year later, they contracted CWD. Containment of confiscated deer or elk that are infected with CWD within an enclosure or other structure, could expose animals subsequently held in the enclosure to CWD, and thus spread the disease long after the infected animals have been removed.

Interstate and intrastate movement of infected captive deer and elk can quickly spread CWD beyond those areas where it already occurs. Strong circumstantial evidence suggests that CWD outbreaks in free ranging deer in Colorado, Nebraska, and South Dakota are related to captive elk enclosures.

Trade in captive deer and elk lend itself to the spread of CWD. Deer and elk are frequently transferred from one owner to another. These movements are often from state to state. For example, at least 109 elk movements which occurred during 1982-97, were indirectly or directly traced back to a single CWD positive captive elk herd in Montana. Elk from this herd were sent to at least 12 states and 2 Canadian provinces. Elk from a CWD infected Colorado herd were sent to 19 states and introduced into 45 herds. A CWD outbreak in Saskatchewan, Canada that affected 39 elk herds was traced back to a single elk from South Dakota. Exotic animal auctions are another source of concern. At these auctions, a large number of animals come into contact with each other and then are dispersed across the United States. Accurate and verifiable records of where animals have been, and what other animals they have been in contact with, are seldom available.

The cost of a CWD outbreak in Louisiana could be substantial. State government could incur considerable costs in order to effectively contain and monitor a CWD outbreak. By way of example, the Wisconsin Department of Natural Resources spent approximately \$250,000 for monitoring and containment during the first 49 days of the outbreak in that state. They will spend an additional \$1,900,000 next year and will hire 12 new employees to address the CWD outbreak. The Colorado Division of Wildlife has spent about \$1,000,000 to date for CWD monitoring and containment.

In addition to the cost to government, the private sector would be affected by a CWD outbreak in Louisiana. Interest in deer hunting would likely decline if significantly lower

deer populations result. Additionally, hunter concerns regarding contact with, or consumption of, infected animals could also reduce deer hunting activity. Lower hunting lease values and fewer hunting related retail purchases would therefore be likely. By way of example, Wisconsin Department of Natural Resources personnel report that a significant decline in land value in the CWD affected area has already occurred. A significant reduction in deer hunting activity could also have deleterious effects on agriculture, horticulture, and forestry resulting from increased deer depredation of crops, ornamentals, and trees if the reduction in hunting mortality is not offset by CWD mortality.

The primary means of containing a CWD outbreak involves depopulating an area surrounding the infection site(s). In Wisconsin Department of Natural Resources personnel and landowners are killing 500 deer in a 415 square mile area for testing. If more infected deer are found, a depopulation program will likely be instituted. In Colorado, the Division of Wildlife is killing as many deer and elk as possible in a 5-mile radius of the CWD outbreak in western Colorado. These types of depopulation efforts are offensive to wildlife agencies, hunters, and other citizens. However, this is the only available means to control CWD outbreaks in wild free-ranging deer.

In recognition of the CWD threat, and lack of a coordinated eradication/control effort, the United States Department of Agriculture enacted a declaration of emergency in September 2001 to authorize funding of a CWD indemnification and eradication program in the United States. Prohibitions or limitations on the importation of deer and elk have been instituted in a number of states. Texas and Florida recently suspended importation of deer and elk. The state of Texas will euthanize and incinerate the carcasses of illegally imported deer.

Genetic pollution is another concern which arises should confiscated deer be released into the wild. Genetic pollution results from the introduction of non-native deer to Louisiana. Native deer are tailored (genetically) by nature for survival in Louisiana's varied habitats. Hybridization could have a detrimental and irreversible impact on Louisiana's deer resource. Diminished resistance to parasites/diseases and altered breeding ecology are two major concerns that could significantly reduce the fitness (productivity) of local deer.

Experience and research has shown that northern deer are inferior at surviving in southern environments. Northern deer are precisely engineered by nature to fit their northern environment. They are larger and have heavier winter coats to cope with extreme cold and have an immune system that has never been exposed to southern diseases and parasites. Conversely, southern deer are smaller by design to better cope with heat and humidity and their immune systems are genetically programmed to fight specific diseases and parasites. Recent research has shown that deer from other regions do not do well in Louisiana.

A serious outbreak of hemorrhagic disease (EHDV-2) at the Mississippi State University research pens in 1994 killed 36 of 114 deer originating from seven different states. The differences in mortality rates between the genetic groupings

were significant with the probability of mortality increasing as the proportion of northern genes increased. Northern deer have very little resistance to EHD.

After 2 growing seasons in Louisiana, antler development on 24 translocated Wisconsin bucks was average or below average when compared to native bucks of similar age. At 2.5 years old, Wisconsin bucks averaged 5.3 points while native deer averaged nearly 7.5 points. Wisconsin deer did not develop the superior antlers they were genetically capable of when grown in Louisiana.

Humane treatment of confiscated deer is an important consideration to the LWFC, the LDWF, and the public, and toward that end confiscated deer will be handled and euthanized in the most humane manner possible. Of even more importance, however, is the long-term health and vitality of the Louisiana's wild deer resources.

The lack of a live animal test to detect CWD, an incubation period measured in years, insufficient animal records, and possible long-term CWD contamination of facilities, make it extremely difficult to prevent the introduction of CWD into Louisiana if imported deer and elk are integrated into existing captive deer herds or released into the wild. The recent deer and elk importation ban in Texas, formerly one of the largest buyers of deer, may result in "dumping" of deer into Louisiana and other states. Introduction of CWD into Louisiana could have wide-ranging and significant negative impacts on the state's wild deer resources and economy. Genetic pollution can have negative impacts on local native deer populations should non-native deer be released into the wild. For these reasons and those outlined above, the Louisiana Wildlife and Fisheries Commission believes euthanasia of all deer and elk imported contrary to LWFC regulations and state law is warranted. Furthermore, the LWFC believes that the Louisiana Department of Wildlife and Fisheries should euthanize illegally obtained deer with origins within the state if the Department believes such action is prudent and necessary based upon considerations including the certainty of origin, confinement history, and age.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§121. Disposal of Illegal Live Deer and Elk

A. Definitions

White-Tailed Deer Any animal of the species *Odocoileus virginianus*.

Mule Deer or *Black-Tailed Deer* Any animal of the species *Odocoileus hemionus*.

Elk or *Red Deer* Any animal of the species *Cervus elaphus*.

B. White-tailed deer, mule deer, black-tailed deer, elk, or red deer imported into Louisiana in violation of Louisiana Wildlife and Fisheries Commission (LWFC) rules or state statutes shall be euthanized by the Louisiana Department of Wildlife and Fisheries (LDWF), or its designee, in a manner conforming to the *2000 Report of the AVMA Panel on Euthanasia*. At the discretion of the LDWF, white-tailed deer

originating from within Louisiana and possessed in violation of LWFC rules or state statutes, may be euthanized in a manner conforming to the *2000 Report of the AVMA Panel on Euthanasia*, or placed with a licensed game breeder in accordance with LDWF guidelines. Certainty of origin, confinement history, and age will be among the factors considered by LDWF in making a determination regarding disposition of white-tailed deer originating from within Louisiana. White-tailed deer placed with licensed game breeders shall remain in confinement for their entire lives and shall not be released into the wild.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

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

Thomas M. Gattle, Jr.
Chairman

0205#042

Rules

RULE

Department of Economic Development Office of the Secretary

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

The Department of Economic Development, Office of the Secretary, pursuant to the Administrative Procedure Act, R.S. 49:950, et seq., has amended the rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1935, to provide for the investment of certain funds, as determined by the secretary, in pre-seed, seed, and early stage business ventures, and certified disadvantaged businesses, and business ventures operating in economically distressed areas.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§320. Investment in Approved Funds

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

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

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

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

B. The amount to be invested by each certified Louisiana capital company pursuant to Subsection A shall be determined annually by the secretary beginning January 1, 2000. Such amount shall not exceed ten percent of all capital certified by such certified Louisiana capital company in the previous calendar year that are eligible for credits pursuant to R.S. 22:1068(E). The amount to be invested pursuant to Subsection A shall be invested within 120 days from the end

of the calendar year in which the capital is certified or 120 days from the date the secretary determines the amount to be invested, whichever is later. If certified capital is paid in pursuant to a debt instrument in accordance with the provisions of R.S. 22:1068(E)(1)(a) and LAC 13:XV.303. *Investment*(a)(iii), the investment required to be made by this Section may be made at the rate of ten percent of actual cash received each year.

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

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

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

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

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

G. If a certified Louisiana capital company which is required to invest funds by this Section is also a certified

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

H. Any certified Louisiana capital company may request a determination from the secretary that it is a certified Louisiana capital company described in Subsection A.2. A request for a determination shall be addressed to the secretary and shall include a copy of the certified Louisiana capital company's:

- 1. articles of organization;
- 2. by-laws;
- 3. investment policy; and
- 4. any disclosure statement distributed to prospective investors.

If any of those documents have been amended from its original form, a copy of both the original and amended documents must be provided. The secretary may request any additional information that he deems necessary to make a determination.

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

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

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

J. For purposes of this Section only, the following terms shall have the meaning provided in this Subsection:

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

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

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

*Pre-Seed*Cshall include an enterprise that conducts research and development to demonstrate proof of concept, files for initial patents and plans the enterprise for at least the

two rounds of financing subsequent to initial investment in the enterprise.

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

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 27:675 (May 2001), amended LR 28:989 (May 2002).

Don J. Hutchinson
Secretary

0205#057

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Grade-Level Endorsements to Existing Certificates (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The new certification structure provides add-on certification within the undergraduate program, but does not address grade-level endorsements to existing certificates. This Bulletin 746 policy provides conditions under which grade-level endorsements may be added to existing certificates, based on the new certification structure. This represents a new policy that will become effective in July, 2002. This action will allow Louisiana teachers to add grade-level endorsements to existing certificates, building upon initial certification areas provided through an undergraduate program of study. This will assist districts in more effective placement of teachers in areas of certification.

Title 28

EDUCATION

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

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A.(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 27:825 (June 2001); LR 27:827 (June 2001); LR 27:828 (June 2001), LR 28:990 (May 2002).

Grade-Level Endorsements to Existing Certificates

The new certification structure contains "Additional Certifications" to be used as part of the undergraduate program for persons pursuing credentials in teacher education. The same requirements are to be used for endorsements to certificates for adjacent grade-level structure.

BASIC CERTIFICATIONS (To which endorsements may be added)	ADD-ON CERTIFICATIONS		TOTAL HOURS
	NEW CERTIFICATIONS (Endorsement areas that can be added to adjacent grade-level structures only)	ADDITIONAL COURSES AND HOURS	
GRADES PK - 3	GRADES 1-6	Content Emphasis: Sciences 6 Hours Social Studies 6 Hours Mathematics 3 Hours	15 Hours
GRADES 1-6	GRADES PK - 3	Content Emphasis: Nursery School and Kindergarten 12 Hours	12 Hours
GRADES 1-6	GRADES 4-8 (Generic)	Content Emphasis: English 3 Hours Mathematics 3 Hours Science 4 Hours Social Studies 3 Hours	13 Hours
GRADES 4-8	GRADES 1-6	Reading/Language Arts and Math Emphasis: Reading/ Language Arts 9 Hours Mathematics 3 Hours	12 Hours
GRADES 1-6, GRADES 4-8, OR GRADES 7-12	Mild/Moderate Special Education	Special Education Emphasis*: Methods and Materials for Mild/Moderate Exceptional Children, Assessment and Evaluation of Exceptional Learners, Behavioral Management of Mild/Moderate Exceptional Children, and Vocational and Transition Services for Students with Disabilities 12 Hours Practicum in Assessment and Evaluation of Mild/Moderate Exceptional Children 3 Hours (Note: This should not be required if students participate in student teaching that combines regular and special education teaching experiences.)	12 Hours (Additional 3 Hour Practicum, if not integrated into other field-based experiences and student teaching)

Weegie Peabody
Executive Director

0205#013

RULE

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)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching

by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The changes more clearly explain and refine the existing policy as follows: 1) Indicators of District Accountability, 2) Performance Labels to be assigned, and 3) District Accountability reports to be published.

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 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 27:694 (May 2001); LR 27:695 (May 2001); LR 27:815 (June 2001), LR 28:991 (May 2002).

The Louisiana School and District Accountability System
C District Accountability

1.007.00. Every school district shall participate in a district accountability system based on the performance of schools as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

Indicators for District Accountability

1.007.01 There shall be two statistics reported for each school district for District Accountability:

- a District Performance Score (DPS); and
- a District Responsibility Index (DRI).

District Performance Score (DPS)

A District Performance Score (DPS) shall be the average of School Performance Scores (SPS) of all schools in a district. The DPS shall be reported as a numeric value.

District Responsibility Index (DRI)

A District Responsibility Index (DRI) shall be the weighted average of four indicators¹ with each indicator to be expressed as an index. A score of 100 = good and a score of 150 = excellent.

The proposed indicators include:

1. Summer School;
2. The change in SPS for all schools relative to Growth Targets;
3. The change in LEAP 21 first-time passing rate from one year to the next; and
4. Certified Teachers.

¹ Indicators for school finance and graduation rate of high school students may be considered in the calculation of the District Responsibility Index at a later date.

Indicators and Weights	
Indicator	Weighting
1. Summer School.	30% (Part A 15% + Part B 15%)
2. The change in SPS for all schools relative to Growth Targets.	25%
3. The change in LEAP 21 first-time passing rate from one year to the next.	25% (Part A 12.5% + Part B 12.5%)
4. Certified Teachers	20% (Part A 15% + Part B 5%)

Indicator 1: Summer School

The Louisiana Department of Education shall use two statistics when calculating an index score for summer school.

Part A: The percentage passing summer LEAP 21 tests.

The Louisiana Department of Education shall calculate the percentage passing summer LEAP 21 tests by using the number of students who scored *Unsatisfactory* in the previous spring as the denominator. The scores of first-time students shall be included (i.e., not students who are repeating the grade because of a score of *Unsatisfactory* in the previous year). This statistic shall include grades 4 and 8 and shall be weighted by the number of students failing each test in the previous spring. English language arts (ELA) and mathematics shall be counted separately. The numerator and denominator shall be the sum of counts in grade 4 ELA and mathematics plus grade 8 ELA and mathematics. Students' summer school results shall be attributed to the district in which they took the summer test.

Formula for Converting Part A to an Index: $2.5 * (\text{percent passing} + 5)$.

Implications of Index for Part A:
 35 percent passing of summer tests shall yield an Index of 100.
 55 percent passing of summer tests shall yield an Index of 150.

Part B: The change in scale scores on LEAP21 from spring to summer for scores that are *Unsatisfactory* in the spring.

The Louisiana Department of Education shall use the mean change in scale scores on LEAP 21 from the spring to the summer administration, for all scores that were *Unsatisfactory* in the spring administration. The scores of first-time students shall be included (i.e. not students who are repeating the grade because of a score of *Unsatisfactory* in the previous year. If a student is tested in the spring but not in the summer, the change for that student's score shall be "0." If a student is tested in the summer but not in the spring, the spring score shall be assumed to be the 10th percentile of students tested in the spring. Four averages shall be computed for each district- ELA and mathematics for both 4th and 8th grades. The district score shall be the weighted average of the four results. Students' summer school results shall be attributed to the district in which they took the summer test.

Formula for Converting Part B to an Index: $5 * (\text{average scale score gain})$.

Implications of Index Part B:
 A scale score gain of 20 points shall yield an Index of 100.
 A scale score gain of 30 points shall yield an Index of 150.

Indicator 2: The Change in SPS for all schools relative to Growth Targets

The Louisiana Department of Education shall compute the change in School Performance Scores (SPSs) for all schools in the district. The relative change in SPSs for all schools shall be the weighted sum of gains (weighted by the school's enrollment) divided by the weighted sum of Growth Targets.

Formula for Converting to an Index: $100 * (\text{the relative change in SPS})$.

Implications of Index:
 All schools meeting their Growth Targets shall yield an Index of 100.
 All schools achieving 1.5 times their Growth Targets shall yield an Index of 150.

Indicator 3: The change in LEAP 21 first-time passing rate from one year to the next

The Louisiana Department of Education shall calculate the simple average of two statistics when calculating an index score for the change in LEAP 21 first-time passing rate from one year to the next. The scores of first-time test-takers shall be used for each statistic

Part A: percent passing

Formula for Converting Part A to an Index: $3.333 * (\text{Percent passing} - 50)$.

Implications of Index for Part A:
 An 80% pass rate shall yield an Index of 100.
 A 95% pass rate shall yield an Index of 150.

Part B: Improvement in percentage passing

Formula for Converting Part B to an Index: $25 * (\text{change in passing rate} + 2)$.

Implications of Index for Part B:
 A 2% increase yields an Index of 100.
 A 4% increase yields an Index of 150.

The results of Part B shall be limited to a minimum value of "0" and a maximum of "200."

Indicator 4: Certified Teachers

For the purpose of District Accountability, the Louisiana Department of Education shall define certified teachers as those who hold an A, B, or C certificate or who have been certified in accordance with the 12-Hour rule and whose certification includes 100 percent of the classes they teach. The Louisiana Department of Education shall use two statistics when calculating an index score for certified teachers.

Part A: The percentage of certified teachers in schools below the state average¹

The Louisiana Department of Education shall calculate this statistic by multiplying 100 times the number of teachers in the district that are certified divided by the number of teachers in the district. If no schools in the district are scoring below the state average, Part A of this indicator shall not apply and the total weight of this indicator shall be applied to Part B.

Formula for Converting Part A to an Index: 5* (percent certified^{C70})
 Implications of Index for Part A:
 90 percent of teachers certified shall yield an Index of 100.
 100 percent of teachers certified shall yield an Index of 150.

Part B: The percentage of certified teachers in the district

The Louisiana Department of Education shall calculate this statistic by multiplying 100 times the number of teachers in the district that are certified divided by the number of teachers in the district.

Formula for Converting Part A to an Index: 5* (percent certified^{C70})
 Implications of Index for Part A: 90 percent of teachers certified shall yield an Index of 100.

100 percent of teachers certified shall yield an Index of 150.
¹The Louisiana Department of Education calculates two state averages: a state average for K-8 schools and a state average for 9-12 and combination schools. Combination schools are schools that contain 10th and/or 11th grade and a 4th and/or 8th grade (i.e., a school with grades 7-12)

Performance Labels

1.007.02 A district shall not receive a label for its District Performance Score. A label shall be reported for the District Responsibility Index (DRI) and for each of the four indicators.

District Responsibility Index	Label
120.0 or more	Excellent
100.0-119.9	Very Good
80.0-99.9	Good
60.0-79.9	Poor
0.0-59.9	Unsatisfactory

Corrective Actions

1.007.03 The Louisiana Department of Education shall report district scores and labels on every school district. Consequences imposed on a district shall be based on its District Responsibility Index (DRI). Any district receiving a Performance Label of *Unsatisfactory* for its DRI shall become subject to an operational audit. If a district scores Unsatisfactory again within two years, the SBESE shall have the authority to act on the audit findings, including the withholding of funds to which the district might otherwise be entitled.

Progress Report

1.007.04 The Louisiana Department of Education shall publish a District Accountability Report. The report shall contain the labels for the DRI and for each of the four indicators. The report shall also contain the percent poverty,

poverty ranking, and percentage of students enrolled in public education for the district

* * *

Weegie Peabody
 Executive Director

0205#014

RULE

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

Incorporation by Reference C2001
 (LAC 33:I.3931; III.507, 1432, 3003, 5116, 5122, 5311; V.Chapter 30.Appendices A-L; IX.2301, 2531, 2533; XV.1517)(OS043*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.3931; 33:III.507, 1432, 3003, 5116, 5122, and 5311; 33:V.Chapter 30.Appendices A-L; 33:IX.2301, 2531, and 2533; and 33:XV.1517 (Log #OS043*).

This Rule is identical to federal regulations found in 10 CFR 71, 7/1/2001; 40 CFR 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 266.Appendices A-M, 302.4, 401, and 405-471, 7/1/2001, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This Rule incorporates by reference into LAC 33:I, III, V, IX, and XV the corresponding regulations in 10 CFR 71 and 40 CFR Parts 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 144.63, 266, 302.4, 401, and 405-471, July 1, 2001. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC.

On March 5, 2002, EPA adopted revisions to Sections 112(g) and 112(j) of the Clean Air Act Amendments of 1990. The rule is titled, "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)." In effect, the requirement to submit a Title V permit application on May 15, 2002, for any facility whose source category Part 63 (MACT) Rule has not been promulgated by May, 15, 2002, is revised to a requirement to submit a Part 1 Permit Application. A Fact Sheet that includes the web address for the newly promulgated rule may be found at the following web address: http://www.epa.gov/tn/oarpg/t3/fact_sheets/gprctd_fs.pdf. This federal rule is being incorporated by reference in this Rule (OS043*).

This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this Rule are to mirror the federal regulations in order to maintain equivalency.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary
Subpart 2. Notification**

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. ...

1. 40 CFR 117.3 (7-1-01 Edition) Table 117.3-Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4 (7-1-01 Edition) Table 302.4-List of Hazardous Substances and Reportable Quantities; Appendix A to §302.4-Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. - Note @. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025.J, R.S. 30:2060.H, R.S. 30:2076.D, R.S. 30:2183.I, R.S. 30:2194.C, R.S. 30:2204.A, and R.S. 30:2373.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002).

Part III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The Louisiana Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a),

as in effect on July 1, 2001. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002).

Chapter 14. Conformity

Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act

§1432. Incorporation by Reference

A. 40 CFR Part 93, Subpart A, July 1, 2001, is hereby incorporated by reference with the exclusion of Section 105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR Part 60, as revised July 1, 2001, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1 - Table 1.A. ...

B. Corrective modification and clarification are made as follows.

1. Whenever the referenced regulations (i.e., 40 CFR Part 60) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 60) to be provided to "the Administrator" shall be provided to the Office of Environmental Assessment, Environmental Technology Division where the state is designated authority by EPA as "the Administrator" or shall be provided to the Office of Environmental Assessment, Environmental Technology Division and EPA where EPA retains authority as "the Administrator."

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T) shall be modified to read as follows: State of Louisiana: Office of Environmental Assessment, Environmental Technology Division, Department of Environmental Quality.

3. The availability to the public of information provided to or otherwise obtained by the state under this Chapter shall be governed by LAC 33:I.501-509.

4. Clarification of MSW landfill milestones are as follows: design plans are due on or before January 28, 1999; awarding of contracts is due on or before June 28, 1999; initiation of on-site construction is due on or before September 28, 1999; initial performance test is to be completed on or before March 28, 2000; and final compliance is due on or before April 28, 2000.

5. The department's Section 111(d) emission guideline plan for Hospital/Medical/Infectious Waste Incinerators includes the following CFR citations: 40 CFR 60.30, 60.30(e), 60.31(e), 60.32(e), 60.33(e), 60.35(e), 60.36(e), 60.37(e), 60.38(e), and 60.39(e). Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.34(e), the department accepts accreditation approved by other states complying with 40 CFR 60.34(e).

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR Part 61, dated July 1, 2001, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR 61	Subpart/Appendix Heading

[See Prior Text in Subpart A - Appendix C]	

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), LR 23:1658 (December 1997), amended LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR Part 63, dated July 1, 2001, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference is EPA rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)," promulgated on April 5, 2002, in the *Federal Register*.

40 CFR 63	Subpart/Appendix Heading

[See Prior Text in Subpart A - Appendix D]	

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999) LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002).

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR Part 63, dated July 1, 2001,

and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR 63	Subpart/Appendix Heading

[See Prior Text in Subpart A - Subpart X]	

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), LR 25:1464 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2230 (December 2001), LR 28:995 (May 2002).

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality
Quality Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces
Appendices

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2001, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2001, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2001, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105.Table 1 and Appendix E of this Chapter, respectively.

Appendix E. Risk Specific Doses (10⁻⁵)

A. 40 CFR 266, Appendix V, July 1, 2001, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2001, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105.Table 1, 3025.B.1 and B.2.a, and Chapter 22.Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2001, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2001, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2001, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2001, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2001, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

Part IX. Water Quality
Chapter 23. The LPDES Program

Subchapter A. Definitions and General Program Requirements

§2301. General Conditions

A. - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those regulations published in the July 1, 2001 *Code of Federal Regulations*, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.3 and B.4.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002).

§2531. 40 CFR Part 136

A. Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, 2001, in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.3 and B.4.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002).

§2533. 40 CFR Chapter I, Subchapter N

A. Title 40 (Protection of the Environment) CFR, Chapter I, Subchapter N (Effluent Guidelines and Standards), revised July 1, 2001, Parts 401 and Parts 405-471 in their entirety.

NOTE: General Pretreatment Regulations for Existing and New Sources of Pollution found in Part 403 of Subchapter N have been included in these regulations as Subchapter T.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.3 and B.4.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002).

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material
§1517. Incorporation by Reference

A. The department incorporates by reference 10 CFR Part 71, Appendix A (July 1, 2001).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 27:2233 (December 2001), LR 28:997 (May 2002).

James H. Brent, Ph.D.
 Assistant Secretary

0205#031

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Permit Procedures C Insignificant Activities List
(LAC 33:III.501)(AQ222)

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 had amended the Air Quality regulations, LAC 33:III.501 (Log #AQ222).

This rule adds activities to the "Insignificant Activities List." These activities (LAC 33:III.501.B.5) are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under LAC 33:III.Chapter 5, unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The regulated community has asked for an expansion of the "Insignificant Activities List" under LAC 33:III.Chapter 5.Permit Procedures. Previously, the list included approximately 45 activities or emission sources that produce air pollutants in such small amounts that they are exempted from the requirement to obtain a permit under Chapter 5. This rule adds ten insignificant activities to the list. This addition will benefit existing permitted sources in reducing the number of temporary variances or permit minor modifications they are required to obtain from the department. For example, a variance was required to bring in a small portable gasoline tank used to fuel mobile equipment for a maintenance project. Under the expanded list, this does not require a permit action, provided the tank emissions from the temporary tank met the insignificant standard specified in the regulation. Also, small businesses will be aided by reducing the requirements to

obtain an air emissions permit or temporary variance, particularly when bringing in equipment on a temporary basis for construction or maintenance activities, provided such equipment met all the standards defining an insignificant emission source. For example, an existing small business not otherwise required to have an air emissions permit will not have to obtain a permit to add a permanent standby electrical generator for use only during power outages, provided such use met the standards defining the insignificant emission source. The basis and rationale for this rule are to further simplify and streamline the permitting process involving very small air emission sources.

This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

[See Prior Text in A. - B.4.b]

5. Insignificant Activities List. Those activities listed in the following table are approved by the permitting authority as insignificant on the basis of size, emission or production rate, or type of pollutant. By such listing, the permitting authority exempts certain sources or types of sources from the requirement to obtain a permit under this Chapter unless it is determined by the permitting authority on a site-specific basis that any such exemption is not appropriate. The listing of any activity or emission unit as insignificant does not authorize the maintenance of a nuisance or a danger to public health or safety. Any activity for which a state or federal applicable requirement applies is not insignificant, even if the activity meets the criteria below. For the purpose of permitting requirements under LAC 33:III.507, no exemption listed in the following table shall become effective until approved by the administrator in accordance with 40 CFR part 70.

Insignificant Activities List
A. Based on Size or Emission Rate
Permit applications submitted under Subsection A of this Section for sources that include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:
1. external combustion equipment with a design rate greater than or equal to 1 million BTU per hour, but less than or equal to 10 million BTU per hour, provided that the aggregate emissions from all such units listed as insignificant do not exceed five tons per year;

[See Prior Text in 2-3]
4. emissions of any inorganic air pollutant that is not a regulated air pollutant as defined under LAC 33:III.502, provided that the aggregate emissions from all such pollutants listed as insignificant do not exceed five tons per year;
5. external combustion equipment with a design rate less than 1 million BTU per hour;

6. emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
7. noncommercial water washing operations of empty drums less than or equal to 55 gallons with less than 3 percent of the maximum container volume of material;
8. portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate emissions from all such tanks listed as insignificant do not exceed five tons per year;
9. emissions from process stream or process vent analyzers, provided that the aggregate emissions from all such analyzers listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
10. storage tanks containing, exclusively, soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials, the tanks are not subject to 40 CFR 60, subpart Kb or other federal regulation, and the aggregate emissions from all such tanks listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act;
11. catalyst charging operations, provided all such operations listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act; and
12. portable cooling towers used on a temporary basis in maintenance activities, provided the aggregate emissions from all such cooling towers listed as insignificant do not exceed five tons per year, do not exceed any minimum emission rate listed in LAC 33:III.Chapter 51, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with section 112(g) of the federal Clean Air Act.
B. Based on Activity
The following activities need not be included in a permit application:
* * *
[See Prior Text in 1-3]
4. exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;
* * *
[See Prior Text in 5-31]
32. emergency use generators, boilers, or other fuel burning equipment that is of equal or smaller capacity than the primary operating unit, cannot be used in conjunction with the primary operating unit [except for short durations when shutting down the primary operating unit (maximum of 24 hours) and when starting up the primary operating unit until it reaches steady -state operation (maximum of 72 hours)], and does not increase emissions of or the potential to emit any regulated air pollutant;
* * *
[See Prior Text in 33-38]
39. tall oil soap storage, skimming, and loading;
40. emissions from caustic storage tanks that contain no VOC;

41. emissions from fire fighting training conducted in accordance with LAC 33:III.1109.D.7;
42. emissions from <i>oil and gas well and pipeline</i> as defined in accordance with LAC 33:III.502;
43. produced water treatment units (e.g., Wemco units) on crude oil and natural gas production platforms in state waters of the Gulf of Mexico that discharge produced water in accordance with an LPDES permit. These units are the final step in water treatment prior to water discharge under the LPDES permit;
44. portable diesel fuel storage tanks used on a temporary basis in maintenance and construction activities;
45. emergency electrical power generators used only during power outages at sites not otherwise required to have a permit under LAC 33:III.Chapter 5 and operated no more than 500 hours per year; and
46. reserved.
* * *
[See Prior Text in C-D.d]

¹State or federal regulations may apply.

* * *

[See Prior Text in B.6 - C.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002).

James H. Brent, Ph.D.
Assistant Secretary

0205#040

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

RCRA XI Authorization
(LAC 33:V.Chapters 1, 3, 22, 31, 42, and 49)(HW080*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.109, 321, 2213, 2215, 2236, Chapter 22.Appendix.Tables 2, 7, 9, and 11, 3105, 4201-4243, 4901, and 4909 (Log #HW080*).

This rule is identical to federal regulations found in 65 FR 42292-42302, July 10, 2000; 65 FR 67068-67133, November 8, 2000; 65 FR 81373-81381, December 26, 2000; 66 FR 24270-24272, May 14, 2001; 66 FR 27218-27266 and 27266-27297, May 16, 2001; and 66 FR 35087-35107, October 16, 2001, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule;

therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This rule includes changes to the Hazardous Waste regulations on the following topics that are required by the Environmental Protection Agency for continued authorization of the RCRA program in the state of Louisiana: NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil; Storage, Treatment, and Disposal of Mixed Waste; and Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived From Rules. The basis and rationale for this rule are to mirror the federal regulations.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

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

* * *

Hazardous Waste Ca solid waste, as defined in this Section, is a hazardous waste if:

1. - 2.b. ...

c. it is a mixture of solid waste and one or more hazardous wastes listed in LAC 33:V.4901 and has not been excluded from Paragraph 2 or Subparagraphs 4.f and g of this definition under LAC 33:V.105.D and M; however, the following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (except by application of Subparagraph 2.a or b of this definition) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewater at facilities that have eliminated the discharge of wastewater) and:

i. one or more of the following solvents listed in LAC 33:V.4901.BC carbon tetrachloride, tetrachloroethylene, trichloro-ethylene provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or

ii. one or more of the following spent solvents listed in LAC 33:V.4901.BC methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the

headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

iii. one of the following wastes listed in LAC 33:V.4901.C, provided that the wastes are discharged to the refinery oil recovery sewer before primary oil/water/solids separation: Cheat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste Number K050), crude oil storage tank sediment from petroleum refining operations (EPA Hazardous Waste Number K169), clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations (EPA Hazardous Waste Number K170), spent hydrotreating catalyst (EPA Hazardous Waste Number K171), and spent hydrorefining catalyst (EPA Hazardous Waste Number K172); or

iv. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this Clause, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

v. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901, provided that the annualized average flow of laboratory wastewater does not exceed 1 percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

vi. one or more of the following wastes listed in LAC 33:V.4901.CC wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157) provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or are recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or

vii. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.CC organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156) provided that the maximum concentration of formaldehyde, methyl chloride,

methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter; and

d. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by using an analytical method from LAC 33:V.Chapter 49.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

3. - 4.e. ...

f. A hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more characteristics of ignitability as defined under LAC 33:V.4903.B, corrosivity as defined under LAC 33:V.4903.C, or reactivity as defined under LAC 33:V.4903.D is not a hazardous waste if the waste no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903. The exclusion also pertains to any mixture of a solid waste and a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.c of this definition, and any solid waste generated from treating, storing, or disposing of a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Clause 4.b.i of this definition. Wastes excluded under this Subparagraph are subject to LAC 33:V.Chapter 22 (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

g. Hazardous waste containing radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of LAC 33:V.Chapter 42. This exemption also pertains to any mixture of a solid waste and an eligible radioactive mixed waste and any solid waste generated from treating, storing, or disposing of an eligible radioactive mixed waste. Waste exempted under this Subparagraph must meet the eligibility criteria and specified conditions in LAC 33:V.4205 and 4207 (for storage and treatment) and in LAC 33:V.4223 and 4225 (for transportation and disposal). Waste that fails to satisfy these eligibility criteria and conditions is regulated as hazardous waste.

5. - 6.b. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002).

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

§321. Modification of Permits

A. - C.10. ...

a. Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to May 14, 2001 (see 40 CFR 63, revised as of July 10, 2000) in order to request a permit modification under this Section.

C.10.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2213. Waste-Specific Prohibitions—Chlorinated Aliphatic Wastes

A. Effective May 8, 2001, the wastes specified in LAC 33:V.Chapter 49 as EPA Hazardous Waste Numbers K174 and K175, soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

B. The requirements of Subsection A of this Section do not apply if:

1. the wastes meet the applicable treatment standards specified in this Chapter;

2. persons have been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241 or 2271, with respect to those wastes and units covered by the petition;

3. the wastes meet the applicable treatment standards established in accordance with a petition granted under LAC 33:V.2231;

4. hazardous debris has met the treatment standards in LAC 33:V.2223 or the alternative treatment standards in LAC 33:V.2230; or

5. persons have been granted an extension to the effective date of the prohibition granted in accordance with LAC 33:V.2239, with respect to the wastes covered by the extension.

C. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable levels of LAC 33:V.2223, the waste is prohibited from land disposal and all requirements of this Chapter are applicable, except as otherwise specified.

D. Disposal of K175 wastes that have complied with all applicable LAC 33:V.2223 treatment standards must also be macroencapsulated in accordance with Table 8 of this Chapter, unless the waste is placed in:

1. a RCRA Subtitle C monofill containing only K175 wastes that meet all applicable LAC 33:V.2223 treatment standards; or

2. a dedicated RCRA Subtitle C landfill cell in which all other wastes being disposed are at a pH less than or equal to 6.0.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1000 (May 2002).

§2215. Waste Specific Prohibitions—Soils Exhibiting the Toxicity Characteristic for Metals and Containing PCBs

A. Effective December 26, 2000, the following wastes are prohibited from land disposal: any volume of soils exhibiting the toxicity characteristic solely because of metals (D004-D011) and containing PCBs.

B. Requirements of Subsection A of this Section do not apply if:

1. the wastes contain halogenated organic compounds (see Table 9 of this Chapter) in total concentrations of less than 1,000 mg/kg and meet the treatment standards specified in LAC 33:V.2223 for EPA Hazardous Waste Numbers D004-D011, as applicable;

2. the wastes contain halogenated organic compounds in total concentrations of less than 1,000 mg/kg and meet the alternative treatment standards specified in LAC 33:V.2236 for contaminated soil;

3. persons have been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241, with respect to those wastes and units covered by the petition; or

4. the wastes meet applicable alternative treatment standards established in accordance with a petition granted under LAC 33:V.2231.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1001 (May 2002).

§2236. Alternative Land Disposal Restriction (LDR) Treatment Standards for Contaminated Soil

A. - C.3.b. ...

D. Constituents Subject to Treatment. When applying the soil treatment standards in Subsection C of this Section, constituents subject to treatment are any constituents listed in Table 7 (Universal Treatment Standards) of this Chapter that are reasonably expected to be present in any given volume of contaminated soil, except fluoride, selenium, sulfides, vanadium, and zinc, and that are present at concentrations greater than 10 times the universal treatment standard. PCBs are not a constituent subject to treatment in any given volume of soil that exhibits the toxicity characteristic solely because of the presence of metals.

E. - E.2.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, LR 25:446 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 27:294 (March 2001), LR 28:1001 (May 2002).

Appendix

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name ***	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
[See Prior Text in D001-F038]					
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under LAC 33:V.Subchapter A. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.).	*** [See Prior Text in Acenaphthylene-Heptachlor epoxide]			
		1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025
		*** [See Prior Text in Hexachlorobenzene-N-Nitrosopyrrolidine]			
		1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063	0.005
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063	0.005
		*** [See Prior Text in Parathion-Vanadium]			
*** [See Prior Text K001-K172]					
K174	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer.	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035 or CMBST ¹¹	0.0025 or CMBST ¹¹
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035 or CMBST ¹¹	0.0025 or CMBST ¹¹
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035 or CMBST ¹¹	0.0025 or CMBST ¹¹
		HxCDDs (All Hexachlorodibenzo-p-dioxins)	34465-46-8	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
		HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
		1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063 or CMBST ¹¹	0.005 or CMBST ¹¹
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063 or CMBST ¹¹	0.005 or CMBST ¹¹
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
		PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035 or CMBST ¹¹	0.001 or CMBST ¹¹
		TCDDs (All Tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
		TCDFs (All Tetrachlorodibenzofurans)	55722-27-5	0.000063 or CMBST ¹¹	0.001 or CMBST ¹¹
K175	Wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.	Arsenic	7440-36-0	1.4	5.0 mg/L TCLP
		Mercury ¹²	7438-97-6	NA	0.025 mg/L TCLP
		PH ¹²		NA	pH=6.0
	All K175 wastewaters	Mercury	7438-97-6	0.15	NA
*** [See Prior Text in P001-U411]					

Notes 1 - 11 ...

¹²Disposal of K175 wastes that have complied with all applicable LAC 33:V.2223 treatment standards must also be macroencapsulated in accordance with Table 8 of this Chapter unless the waste is placed in: (1) a RCRA Subtitle C monofill containing only K175 wastes that meet all applicable LAC 33:V.2223 treatment standards; or (2) a dedicated RCRA Subtitle C landfill cell in which all other wastes being disposed are at a pH less than or equal to 6.0.

NOTE: NA means not applicable.

Table 7. Universal Treatment Standards

Regulated Constituent-Common Name	CAS ¹ Number	Wastewater Standard Concentration in mg/l ²	Nonwastewater Standard Concentration in mg/kg ³ unless noted as "mg/l TCLP"
Organic Constituents			

[See Prior Text in Acenaphthylene-Heptachlor epoxide]			
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025

[See Prior Text in Hexachlorobenzene- N-Nitrosopyrrolidine]			
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063	0.005
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063	0.005

[See Prior Text in Oxamyl ⁶ -Parathion]			
Total PCBs (sum of all PCB isomers, or all Arochlors) ⁸	1336-36-3	0.10	10

[See Prior Text in Pebulate ⁶ -Zinc ⁵]			

Notes 1 - 7 ...

⁸This standard is temporarily deferred for soil exhibiting a hazardous characteristic due to D004-D011 only.

NOTE: NA means not applicable.

Table 9.

**List of Halogenated Organic Compounds (HOCs)
Regulated under LAC 33:V.2215**

In determining the concentration of HOCs in a hazardous waste for purposes of the LAC 33:V.2215 land disposal prohibition, EPA has defined the HOCs that must be included in a calculation as any compounds having a carbon-halogen bond that are listed in the table below.

I. Volatiles

1. Bromodichloromethane
2. Bromomethane
3. Carbon Tetrachloride
4. Chlorobenzene
5. 2-Chloro-1, 3-butadiene
6. Chlorodibromomethane
7. Chloroethane
8. 2-Chloroethyl vinyl ether
9. Chloroform
10. Chloromethane
11. 3-Chloropropene
12. 1,2-Dibromo-3-chloropropane
13. 1,2-Dibromomethane
14. Dibromomethane
15. Trans-1, 4-Dichloro-2-butene
16. Dichlorodifluoromethane
17. 1,1-Dichloroethane
18. 1,2-Dichloroethane
19. 1,1-Dichloroethylene
20. Trans-1, 2-Dichloroethene
21. 1,2-Dichloropropane
22. Trans-1, 3-Dichloropropene
23. cis-1, 3-Dichloropropene
24. Iodomethane
25. Methylene chloride
26. 1,1,1,2-Tetrachloroethane
27. 1,1,2,2-Tetrachloroethane
28. Tetrachloroethene
29. Tribromomethane

30. 1,1,1-Trichloroethane
31. 1,1,2-Trichloroethane
32. Trichloroethene
33. Trichloromonofluoromethane
34. 1,2,3-Trichloropropane
35. Vinyl Chloride

II. Semivolatiles

1. Bis(2-chloroethoxy)ethane
2. Bis(2-chloroethyl)ether
3. Bis(2-chloroisopropyl)ether
4. p-Chloroaniline
5. Chlorobenzilate
6. p-Chloro-m-cresol
7. 2-Chloronaphthalene
8. 2-Chlorophenol
9. 3-Chloropropionitrile
10. m-Dichlorobenzene
11. o-Dichlorobenzene
12. p-Dichlorobenzene
13. 3,3'-Dichlorobenzidene
14. 2,4-Dichlorophenol
15. 2,6-Dichlorophenol
16. Hexachlorobenzene
17. Hexachlorobutadiene
18. Hexachlorocyclopentadiene
19. Hexachloroethane
20. Hexachloropropene
21. Hexachlorpropene
22. 4,4'-Methylenebis(2-chloroaniline)
23. Pentachlorobenzene
24. Pentachloroethane
25. Pentachloronitrobenzene
26. Pentachlorophenol
27. Pronamide
28. 1,2,4,5-Tetrachlorobenzene
29. 2,3,4,6-Tetrachlorophenol
30. 1,2,4-Trichlorobenzene
31. 2,4,5-Trichlorophenol
32. 2,4,6-Trichlorophenol
33. Tris(2, 3-dibromopropyl)phosphate

III. Organochlorine Pesticides

1. Aldrin
2. alpha-BHC
3. beta-BHC
4. delta-BHC
5. gamma-BHC
6. Chlorodane
7. DDD
8. DDE
9. DDT
10. Dieldrin
11. Endosulfan I
12. Endosulfan II
13. Endrin
14. Endrin aldehyde
15. Heptachlor
16. Heptachlor epoxide
17. Isodrin
18. Kepone
19. Methoxychlor
20. Toxaphene

IV. Phenoxyacetic Acid Herbicides

1. 2,4-Dichlorophenoxyacetic acid
2. Silvex
3. 2,4,5-T

V. PCBs

1. Aroclor 1016

2. Aroclor 1221
3. Aroclor 1232
4. Aroclor 1242
5. Aroclor 1248
6. Aroclor 1254
7. Aroclor 1260
8. PCBs not otherwise specified

VI. Dioxins and Furans

1. Hexachlorodibenzo-p-dioxins
2. Hexachlorodibenzofuran
3. Pentachlorodibenzo-p-dioxins
4. Pentachlorodibenzofuran
5. Tetrachlorodibenzo-p-dioxins
6. Tetrachlorodibenzofuran
7. 2,3,7,8-Tetrachlorodibenzo-p-dioxin

Table 11.

Appendix VII, Table 1, Effective Dates of Surface Disposed Wastes (Non-Soil and Debris) Regulated in the LDRs, of 40 CFR 268, published July 1, 2001, and in 66 FR 27297, May 16, 2001, is hereby incorporated by reference.

Chapter 31. Incinerators

§3105. Applicability

A. - E. ...

Table 1. Hazardous Constituents

Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
*** [See Prior Text in A2213 - 5-Nitro-o-toluidine]			
Octachlorodibenzo-p-dioxin (OCDD)	1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin	3268-87-9
Octachlorodibenzofuran (OCDF)	1,2,3,4,6,7,8,9-Octachlorodibenzofuran	39001-02-0
*** [See Prior Text in Octamethylpyrophosphoramidate - Ziram]			

¹The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002).

Chapter 42. Conditional Exemption for Low-Level Mixed Waste Storage and Disposal

§4201. What Definitions Apply to this Chapter?

A. This Chapter uses the following special definitions.

Agreement StateCa state that has entered into an agreement with the NRC under Section 274.b of the Atomic Energy Act of 1954 (AEA), as amended (68 Stat. 919), to assume responsibility for regulating within its borders by-product, source, or special nuclear material in quantities not sufficient to form a critical mass.

Certified DeliveryCertified mail with return receipt requested, equivalent courier service, or other means that provides the sender with a receipt confirming delivery.

Eligible Naturally Occurring and/or Accelerator-Produced Radioactive Material (NARM)CNARM that is eligible for the transportation and disposal conditional exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by state NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with LAC 33:XV.Chapters 3 and 13, NRC, or NRC agreement state equivalent regulations.

Exempted WasteCa waste that meets the eligibility criteria in LAC 33:V.4205 and meets all of the conditions in LAC 33:V.4207 or meets the eligibility criteria in LAC 33:V.4223 and complies with all the conditions in LAC 33:V.4225. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in LAC 33:V.109.

Hazardous WasteCany material that is defined to be hazardous waste in accordance with LAC 33:V.109, definition of *hazardous waste*.

Land Disposal Restriction (LDR) Treatment StandardsCtreatment standards, under LAC 33:V.Chapter

22, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

*License*Ca license issued by the department, NRC, or a NRC agreement state to users that manage radionuclides regulated by the department, NRC, or NRC agreement states under authority of the Atomic Energy Act of 1954, as amended (see LAC 33:XV.102).

*Low-Level Mixed Waste (LLMW)*Ca waste that contains both low-level radioactive waste and RCRA hazardous waste.

*Low-Level Radioactive Waste (LLRW)*Ca radioactive waste that is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material, as defined in Section 11e.(2) of the Atomic Energy Act (see also the definition of *waste* at LAC 33:XV.102).

*Mixed Waste*Ca waste that contains both RCRA hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954, as amended.

*Naturally Occurring and/or Accelerator-Produced Radioactive Material (NARM)*Cradioactive materials that are:

- a. naturally occurring and are not source, special nuclear, or by-product materials, as defined by the AEA; or
- b. produced by an accelerator. NARM is regulated by the states under state law or by Department of Energy (DOE), as authorized by the AEA under DOE orders.

*NRCC*the U. S. Nuclear Regulatory Commission.

*We or Us*Cwithin this Chapter, the administrative authority, as defined in LAC 33:V.109.

*You*Ca generator, treater, or other handler of low-level mixed waste or eligible NARM.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1004 (May 2002).

§4203. What Does a Storage And Treatment Conditional Exemption Do?

A. The storage and treatment conditional exemption exempts your LLMW from the regulatory definition of hazardous waste in LAC 33:V.109 if your waste meets the eligibility criteria in LAC 33:V.4205 and you meet the conditions in LAC 33:V.4207.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1005 (May 2002).

§4205. What Wastes are Eligible for the Storage and Treatment Conditional Exemption?

A. LLMW, defined in LAC 33:V.4201, is eligible for this conditional exemption if it is generated and managed by you under a single department, NRC, or NRC agreement state license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1005 (May 2002).

§4207. What Conditions Must You Meet for Your LLMW to Qualify for and Maintain a Storage and Treatment Exemption?

A. For your LLMW to qualify for the exemption, you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on your facility. The dated notification must include your name, address, RCRA identification number, department, NRC, or NRC agreement state license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this Chapter. Your notification must be signed by your authorized representative, who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of these regulations in your state or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

B. To qualify for and maintain an exemption for your LLMW you must:

1. store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);

2. store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in LAC 33:V.1919, 2115, 4429 and 4444;

3. certify that facility personnel who manage stored conditionally exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards found in LAC 33:V.1515.A.3;

4. conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with this Chapter; and

5. maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities, describe evacuation plans, list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators, and list emergency equipment.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1005 (May 2002).

§4209. What Waste Treatment Does the Storage and Treatment Conditional Exemption Allow?

A. You may treat your LLMW at your facility within a tank or container in accordance with the terms of your department, NRC, or NRC agreement state license. Treatment that cannot be done in a tank or container without a RCRA permit (such as incineration) is not allowed under this exemption.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1005 (May 2002).

§4211. How Could You Lose the Conditional Exemption for Your LLMW and What Action Must You Take?

A. Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in LAC 33:V.4207. When your LLMW loses the exemption, you must immediately manage that waste, which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container and/or tank storage requirements.

1. If you fail to meet any of the conditions specified in LAC 33:V.4207, you must report to us or the oversight agency in the NRC agreement state, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

- a. the specific condition(s) you failed to meet;
- b. a description of the LLMW (including the waste name, hazardous waste codes, and quantity) and storage location at the facility; and
- c. the date(s) on which you failed to meet the condition(s).

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

B. We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of this Chapter.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1006 (May 2002).

§4213. If You Lose the Storage and Treatment Conditional Exemption for Your LLMW, Can the Exemption Be Reclaimed?

A. You may reclaim the storage and treatment exemption for your LLMW if:

1. you again meet the conditions specified in LAC 33:V.4207; and
2. you send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:
 - a. explain the circumstances of each failure;

b. certify that you have corrected each failure that caused you to lose the exemption for your LLMW and that you again meet all the conditions as of the date you specify;

c. describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future; and

d. include any other information you want us to consider when we review your notice reclaiming the exemption.

B. We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following:

1. you have failed to correct the problem;
2. you explained the circumstances of the failure unsatisfactorily; or
3. you failed to implement a plan with steps to prevent another failure to meet the conditions of LAC 33:V.4207.

C. In reviewing a reclaimed conditional exemption under this Section, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1006 (May 2002).

§4215. What Records Must You Keep At Your Facility and for How Long?

A. In addition to those records required by your department, NRC, or NRC agreement state license, you must keep the following records:

1. your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;
2. records of your LLMW annual inventories and quarterly inspections;
3. your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW, including training in chemical waste management and hazardous materials incidents response; and
4. your emergency plan as specified in LAC 33:V.4207.B.

B. You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter or in accordance with department regulations under LAC 33:XV.Chapter 4, NRC, or equivalent NRC agreement state regulations, whichever is longer. You must maintain records concerning your annual inventory and quarterly inspections for three years after the waste is sent for disposal or in accordance with department regulations under LAC 33:XV.Chapter 4, NRC or equivalent NRC agreement state regulations, whichever is longer.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1006 (May 2002).

§4217. When is Your LLMW No Longer Eligible for the Storage and Treatment Conditional Exemption?

A. When your LLMW has met the requirements of your department, NRC, or NRC agreement state license for

decay-in-storage and can be disposed of as nonradioactive waste, then the conditional exemption for storage no longer applies. On that date your waste is subject to hazardous waste regulation under the relevant sections, and the time period for accumulation of a hazardous waste, as specified in LAC 33:V.1109.E, begins.

B. When your conditionally exempt LLMW, which has been generated and stored under a single department, NRC, or other NRC agreement state license number, is removed from storage, it is no longer eligible for the storage and treatment exemption. However, your waste may be eligible for the transportation and disposal conditional exemption at LAC 33:V.4221.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1006 (May 2002).

§4219. Do Closure Requirements Apply to Units that Stored LLMW Prior to the Effective Date of this Chapter?

A. Interim status and permitted storage units that have been used to store only LLMW prior to the effective date of this Chapter and, after that date, store only LLMW that becomes exempt under this Chapter are not subject to the closure requirements of LAC 33:V.Chapters 5, 18, 19, 21, 23, 24, 25, 27, 28, 29, 32, 35, and 43. Storage units (or portions of units) that have been used to store both LLMW and non-mixed hazardous waste prior to the effective date of this Chapter or are used to store both after that date remain subject to closure requirements with respect to the non-mixed hazardous waste.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1007 (May 2002).

§4221. What Does the Transportation and Disposal Conditional Exemption Do?

A. This conditional exemption exempts your waste from the regulatory definition of hazardous waste if your waste meets the eligibility criteria under LAC 33:V.4223 and you meet the conditions in LAC 33:V.4225.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1007 (May 2002).

§4223. What Wastes Are Eligible for the Transportation and Disposal Conditional Exemption?

A. Eligible waste must be:

1. a LLMW, as defined in this Chapter, that meets the waste acceptance criteria of a LLRWDF; and/or
2. an eligible NARM waste, as defined in this Chapter.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1007 (May 2002).

§4225. What Are the Conditions You Must Meet for Your Waste to Qualify for and Maintain the Transportation and Disposal Conditional Exemption?

A. You must meet the following conditions for your eligible waste to qualify for and maintain the exemption.

1. The eligible waste must meet or be treated to meet LDR treatment standards, as described in LAC 33:V.4227.

2. If you are not already subject to department, NRC, or NRC agreement state equivalent manifest and transportation regulations for the shipment of your waste, you must manifest and transport your waste according to department regulations, as described in LAC 33:V.4229, NRC, or NRC agreement state equivalent regulations.

3. The exempted waste must be in containers when it is disposed of in the LLRWDF, as described in LAC 33:V.4235.

4. The exempted waste must be disposed of at a designated LLRWDF, as described in LAC 33:V.4233.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1007 (May 2002).

§4227. What Treatment Standards Must Your Eligible Waste Meet?

A. Your LLMW or eligible NARM waste must meet LDR treatment standards specified in LAC 33:V.Chapter 22.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1007 (May 2002).

§4229. Are You Subject to the Manifest and Transportation Condition in LAC 33:V.4225.A.2?

A. If you are not already subject to equivalent department, NRC, or NRC agreement state manifest and transportation regulations for the shipment of your waste, you must meet the manifest requirements under LAC 33:XV.465 and the transportation requirements under LAC 33:XV.Chapter 15 to ship the exempted waste.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1007 (May 2002).

§4231. When Does the Transportation and Disposal Exemption Take Effect?

A. The exemption becomes effective once all the following have occurred.

1. Your eligible waste meets the applicable LDR treatment standards.

2. You have received return receipts that you have notified us and the LLRWDF, as described in LAC 33:V.4237.

3. You have completed the packaging and preparation for shipment requirements for your waste according to LAC 33:XV.Chapter 15, NRC, or other NRC agreement state equivalent regulations, and you have prepared a manifest for

your waste according to LAC 33:XV.Chapter 4, NRC, or other NRC agreement state equivalent regulations.

4. You have placed your waste on a transportation vehicle destined for a LLRWDF licensed by the department, NRC, or other NRC agreement state.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1007 (May 2002).

§4233. Where Must Your Exempted Waste be Disposed of?

A. Your exempted waste must be disposed of in a LLRWDF that is regulated and licensed by LAC 33:XV.Chapters 3 and 13, NRC, or other NRC agreement state, including state NARM licensing regulations for eligible NARM.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002).

§4235. What Type of Container Must be Used for Disposal of Exempted Waste?

A. Your exempted waste must be placed in containers before it is disposed. The container must be:

1. a carbon steel drum;
2. an alternative container with equivalent containment performance in the disposal environment, such as a carbon steel drum; or
3. a high integrity container as defined by department, NRC, or other NRC agreement state regulations.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002).

§4237. Whom Must You Notify?

A. You must provide a one time notice to us stating that you are claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from your facility to a LLRWDF. Your dated written notice must include your facility name, address, phone number, and RCRA ID number and be sent by certified delivery.

B. You must notify the LLRWDF receiving your exempted waste by certified delivery before shipment of each exempted waste. You can only ship the exempted waste after you have received the return receipt of your notice to the LLRWDF. This notification must include the following:

1. a statement that you have claimed the exemption for the waste;
2. a statement that the eligible waste meets applicable LDR treatment standards;
3. your facility's name, address, and RCRA ID number;
4. the RCRA hazardous waste codes prior to the exemption of the waste streams;
5. a statement that the exempted waste must be placed in a container, according to LAC 33:V.4235, prior to

disposal in order for the waste to remain exempt under the transportation and disposal conditional exemption of this Chapter;

6. the manifest number of the shipment that will contain the exempted waste; and

7. a certification that all the information provided is true, complete, and accurate. The statement must be signed by your authorized representative.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002).

§4239. What Records Must You Keep at Your Facility and for How Long?

A. In addition to those records required by the department, NRC, or other NRC agreement state license, you must keep records as follows.

1. You must follow the applicable existing recordkeeping requirements under LAC 33:V.1529, 2245, and 4357 to demonstrate that your waste has met LDR treatment standards prior to your claiming the exemption.

2. You must keep a copy of all notifications and return receipts required under LAC 33:V.4241 and 4243 for three years after the exempted waste is sent for disposal.

3. You must keep a copy of all notifications and return receipts required under LAC 33:V.4237.A for three years after the last exempted waste is sent for disposal.

4. You must keep a copy of the notification and return receipt required under LAC 33:V.4237.B for three years after the exempted waste is sent for disposal.

5. If you are not already subject to equivalent department, NRC, or other NRC agreement state manifest and transportation regulations for the shipment of your waste, you must also keep all other documents related to tracking the exempted waste as required under LAC 33:XV.465, including applicable NARM requirements, in addition to the records specified in this Section.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002).

§4241. How Could You Lose the Transportation and Disposal Conditional Exemption for Your Waste and What Actions Must You Take?

A. Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in LAC 33:V.4225.

1. When you fail to meet any of the conditions specified in LAC 33:V.4225 for any of your wastes, you must report to us, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

- a. the specific condition(s) that you failed to meet for the waste;

- b. a description of the waste (including the waste name, hazardous waste codes, and quantity) that lost the exemption; and
- c. the date(s) on which you failed to meet the condition(s) for the waste.

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally, within 24 hours, and follow up with a written notification within five days.

B. We may terminate your ability to claim a conditional exemption for your waste or require you to meet additional conditions to claim a conditional exemption for serious or repeated noncompliance with any requirement(s) of this Chapter.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002).

§4243. If You Lose the Transportation and Disposal Conditional Exemption for a Waste, Can the Exemption Be Reclaimed?

A. You may reclaim the transportation and disposal exemption for a waste after you have received a return receipt confirming that we have received your notification of the loss of the exemption specified in LAC 33:V.4241.A and if:

- 1. you again meet the conditions specified in LAC 33:V.4225 for the waste; and
- 2. you send a notice, by certified delivery, to us that you are reclaiming the exemption for the waste. Your notice must be signed by your authorized representative certifying

that the information provided is true, accurate, and complete. The notice must:

- a. explain the circumstances of each failure;
- b. certify that each failure that caused you to lose the exemption for the waste has been corrected and that you again meet all conditions for the waste as of the date you specify;
- c. describe plans you have implemented, listing the specific steps that you have taken, to ensure that conditions will be met in the future; and
- d. include any other information you want us to consider when we review your notice reclaiming the exemption.

B. We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to:

- 1. you have failed to correct the problem;
- 2. you explained the circumstances of the failure unsatisfactorily; or
- 3. you failed to implement a plan with steps to prevent another failure to meet the conditions of LAC 33:V.4225.

C. In reviewing a reclaimed conditional exemption under this Section, we may add conditions to the exemption to ensure that transportation and disposal activities will protect human health and the environment.

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

HISTORICAL NOTE: Promulgated by Department of Environmental Quality, the Office of Environmental Assessment, Environmental Planning Division, LR 28:1009 (May 2002).

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

A. - C. ...

Table 2. Hazardous Wastes from Specific Sources		
Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
* * *		
Organic Chemicals		
* * *		
[See Prior Text in K009 – K161]		
K174	(T)	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions: (i) they are disposed of in a RCRA subtitle C or nonhazardous landfill licensed or permitted by the state or federal government; (ii) they are not otherwise placed on the land prior to final disposal; and (iii) the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of RCRA subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (e.g., contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill,) that the terms of the exclusion were met.
K175	(T)	Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.
Inorganic Chemicals		
* * *		

D. - F. Table 4. ...

G. Constituents that Serve as a Basis for Listing Hazardous Waste. Table 6 lists constituents that serve as a basis for listing hazardous waste.

Table 6.

Table of Constituents that Serve as a Basis for Listing Hazardous Waste
*** [See Prior Text in F001-K172, Benzene, arsenic]
EPA Hazardous Waste Number K174
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)
HxCDDs (All Hexachlorodibenzo-p-dioxins)
HxCDFs (All Hexachlorodibenzofurans)
PeCDDs (All Pentachlorodibenzo-p-dioxins)
OCDD (1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin)
OCDF (1,2,3,4,6,7,8,9-Octachlorodibenzofuran)
PeCDFs (All Pentachlorodibenzofurans)
TCDDs (All Tetrachlorodibenzo-p-dioxins)
TCDFs (All Tetrachlorodibenzofurans)
EPA Hazardous Waste Number K175
Mercury

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:321 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790, 791 (November 1988), LR 15:182 (March 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR:715 (May 2001), LR 28:1009 (May 2002).

§4909. Comparable/Syngas Fuel Exclusion

A. - D.2.b.i. ...

ii. utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

c. hazardous waste incinerators subject to regulation under LAC 33:V.Chapter 31 or Chapter 43.Subchapter N or applicable CAA MACT standards; or

d. gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

D.3 - D.13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:305 (March 2001), LR 28:1010 (May 2002).

James H. Brent, Ph.D.
Assistant Secretary

0205#030

RULE

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

Respiratory Protection
(LAC 33:XV.403, 443, and Appendix A)(RP029*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.403, 443, and Appendix A (Log #RP029*).

This Rule is identical to federal regulations found in 64 FR 54543, 10/7/99, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This Rule consists of amendments to LAC 33:XV addressing respiratory protection and controls to restrict internal exposures. Included are the definitions of air purifying respirator, atmosphere-supplying respirator, assigned protection factors (APF), demand respirator, disposable respirator, fit factor test, fit test, filtering facepiece (dust mask), helmet, hood, loose-fitting facepiece, negative pressure respirator, positive pressure respirator, powered air-purifying respirator, pressure demand respirator, qualitative fit test, quantitative fit test, self-contained breathing apparatus, supplied-air respirator, tight-fitting facepiece, and user seal check (fit check). Also included are the addition of application for the use of higher assigned protection factors and the modification of Appendix A to include assigned protection factors for respirators. As a Nuclear Regulatory Commission Agreement State, in accordance with the NRC Agreement signed on May 1, 1967, Louisiana has accepted the responsibility for promulgating regulations that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended. In certain areas defined by the NRC, state regulations must be the same as NRC regulations. The extent to which the regulation must be identical, whether in content or in effect, is determined by the NRC. All amendments in this package are mandated by the NRC to comply with recent NRC regulation changes. The basis and rationale for these amendments are to achieve compatibility with the regulations of the Nuclear Regulatory Commission in accordance with Section 274 of the Atomic Energy Act of 1954, as amended.

Title 33
ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 4. Standards for Protection Against Radiation

Subchapter A. General Provisions

§403. Definitions

A. As used in this Chapter, the following definitions apply.

*Air-Purifying Respirator*Ca respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

* * *

*Assigned Protection Factor (APF)*Cthe expected work place level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

*Atmosphere-Supplying Respirator*Ca respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere and includes supplied-air respirators (SARS) and self-contained breathing apparatus (SCBA) units.

* * *

*Demand Respirator*Can atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

* * *

*Disposable Respirator*Ca respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

* * *

*Filtering Facepiece (Dust Mask)*Ca negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium that is not equipped with elastomeric sealing surfaces and adjustable straps.

*Fit Factor*Ca quantitative estimate of the fit of a particular respirator to a specific individual, which typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

*Fit Test*Cthe use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

*Helmet*Ca rigid respiratory inlet covering that also provides head protection against impact and penetration.

*Hood*Ca respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

* * *

*Loose-Fitting Facepiece*Ca respiratory inlet covering that is designed to form a partial seal with the face.

* * *

*Negative Pressure Respirator (Tight Fitting)*Ca respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

* * *

*Positive Pressure Respirator*Ca respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

*Powered Air-Purifying Respirator (PAPR)*Can air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

*Pressure Demand Respirator*Ca positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

*Qualitative Fit Test (QLFT)*Ca pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

*Quantitative Fit Test (QNFT)*Can assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

* * *

*Self-Contained Breathing Apparatus (SCBA)*Can atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

* * *

*Supplied-Air Respirator (SAR) or Airline Respirator*Can atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

*Tight-Fitting Facepiece*Ca respiratory inlet covering that forms a complete seal with the face.

*User Seal Check (Fit Check)*Can action conducted by the respirator user to determine if the respirator is properly seated to the face (e.g., negative pressure check, positive pressure check, irritant smoke test, or isoamyl acetate check).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2768 (December 2000), LR 28:1011 (May 2002).

Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas

§443. Application for Use of Higher Assigned Protection Factors

A. The licensee shall obtain authorization from the department before using assigned protection factors in excess of those specified in Appendix A of this Chapter. The department may authorize a licensee to use higher assigned protection factors upon receipt of an application that:

1. describes the situation for which a need exists for higher protection factors; and
2. demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

Appendix A

Assigned Protection Factors for Respirators ^a		
Type of Respirator	Operating Mode	Assigned Protection Factors (APF)
I. Air-Purifying Respirators [Particulate ^b Only] ^c		
Filtering facepiece, disposable ^d	Negative pressure	(^d)
Facepiece, half ^e	Negative pressure	10
Facepiece, full	Negative pressure	100
Facepiece, half	Powered air-purifying respirators	50
Facepiece, full	Powered air-purifying respirators	1000
Helmet/hood	Powered air-purifying respirators	1000
Facepiece, loose fitting	Powered air-purifying respirators	25
II. Atmosphere-Supplying Respirators [particulate, gases, and vapors] ^f		
1. Airline Respirator:		
Facepiece, half	Demand	10
Facepiece, half	Continuous flow	50
Facepiece, half	Pressure demand	50
Facepiece, full	Demand	100
Facepiece, full	Continuous flow	1000
Facepiece, full	Pressure demand	1000
Helmet/hood	Continuous flow	1000
Facepiece, loose-fitting	Continuous flow	25
Suit	Continuous flow	(^g)
2. Self-Contained Breathing Apparatus (SCBA):		
Facepiece, full	Demand	100 ^h
Facepiece, full	Pressure demand	10,000 ⁱ
Facepiece, full	Demand, recirculating	100 ^h
Facepiece, full	Positive pressure, recirculating	10,000 ⁱ
III. Combination Respirators		
Any combination of air-purifying and atmosphere-supplying respirators	Assigned protection factor for type and mode of protection as listed above	

^aThese assigned protection factors apply only in a respiratory protection program that meets the requirements of this Chapter. They are applicable only to airborne radiological hazards and may not be appropriate in circumstances when chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. Selection and use of respirators for such circumstances must also comply with the U.S. Department of Labor regulations. Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B of this Chapter are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances limitations on occupancy may have to be governed by external dose limits.

^bAir-purifying respirators with APF of less than 100 must be equipped with particulate filters that are at least 95 percent efficient. Air-purifying respirators with APFs equal to 100 must be equipped with particulate filters that are at least 99 percent efficient. Air-purifying respirators with APFs greater than 100 must be equipped with particulate filters that are at least 99.97 percent efficient.

^cThe licensee may apply to the department for the use of an APF greater than 1 for sorbent cartridges, as protection against airborne radioactive gases and vapors (e.g., radioiodine).

^dLicensees may permit individuals to use this type of respirator, who have not been medically screened or fit tested on such respirator, provided that no credit be taken for their use in estimating intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use user seal check on this type of device. All other respiratory protection program requirements listed in LAC 33:XV.442 apply. An assigned protection factor has not been assigned for these devices. However, an APF equal to 10 may be used if the licensee can demonstrate a fit factor of at least

100 by use of a validated or evaluated, qualitative or quantitative fit test.

^eUnder-chin type only. No distinction is made in this Appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the facepiece (e.g., disposable or reusable disposable). Both types are acceptable so long as the seal area of the latter contains some substantial type of seal-enhancing material such as rubber or plastic, the two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of this Chapter are met.

^fThe assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin, so that an overall protection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard and protective actions for these contaminants should be based on external (submersion) dose considerations.

^gNo National Institute for Occupational Safety and Health (NIOSH) approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met (i.e., LAC 33:XV.442).

^hThe licensee should implement institutional controls to ensure that these devices are not used in areas immediately dangerous to life or health (IDLH).

ⁱThis type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure, such as skin absorption,

shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1012 (May 2002).

James H. Brent, Ph.D.
Assistant Secretary

0205#032

RULE

**Office of the Governor
Board of Certified Public Accountants**

**Uniform CPA Exam Maximum Fees
(LAC 46:XIX.319 and 709)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of R.S. 37:74, the Board of Certified Public Accountants of Louisiana has amended LAC 46:XIX.319 and 709. This action implements certain provisions of Act 108 of 2000. The action was necessary because of anticipated future increases in the costs and fees for the Uniform CPA Examination. No preamble has been prepared with respect to the revised rules, which appear below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XIX. Certified Public Accountants

**Chapter 3. State Board of Certified Public
Accountants of Louisiana**

**§319. Assessment of Application, Annual and Other
Fees**

A. Examination, certification, firm permit application, renewal, and other fees shall be assessed by the board in amounts not to exceed the following:

Application fees:	
CPA examination feeCwritten	\$ 280
CPA examination feeCcomputerized	\$ 600
Service charge for refund of examination feeCwritten exam	\$ 50

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), LR 13:13 (January 1987), and LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1968 (September 2000), LR 28:1013 (May 2002).

**Chapter 7. Qualifications; Application for CPA
Examination**

§709. Fees

Each application for examination, certification, or firm permit shall be accompanied by a fee set by the board. In no event may the examination fee timely filed exceed the lesser of cost or the maximum amounts provided for in §319. Should such application be rejected, the fee less any service charge shall be refunded. If a Louisiana candidate requests that he be allowed to sit in a state that requires a proctoring fee, he shall be required to pay the proctoring fee. Additional information on fees is included in Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 26:1972 (September 2000), LR 28:1013 (May 2002).

Michael A. Henderson
Executive Director

0205#076

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Claiming Rule (LAC 35:XI.9915 and 9939)

The Louisiana State Racing Commission has amended the following Rule.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9915. Number of Horses Claimed per Race

A. No person shall claim more than two horses in a race.
AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1013 (May 2002).

§9939. Number of Claims on Stable or Trainer

A. When a trainer is training for more than one owner, only two claims from that stable will be allowed for any one race. Only one claim from owners having the same trainer will be allowed for any one horse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission LR 2:447 (December 1976), repromulgated LR 3:42 (January 1977), LR 4:286 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1013 (May 2002).

Charles A. Gardiner III
Executive Director

0205#019

RULE
Office of the Governor
Division of Administration
Racing Commission

Corrupt and Prohibited Practices CPenalty
Guidelines (LAC 35:I.1797)

The Louisiana State Racing Commission has amended LAC 35:I.1797, "Penalty Guidelines," as follows.

Title 35
HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1797. Penalty Guidelines

A. - B.3. ...

4. Classes IV and V: possible suspension of license for a period not more than 60 days and a fine of not less than \$500 nor more than \$1,500, or both, depending on the severity and number of violations occurring within a 12-month period. The purse may be redistributed.

a. On ordinary violation(s) of Classes IV or V within a 12-month period the penalty shall be a fine of \$500 on the first violation, a fine of \$1,000 on the second violation, a fine of \$1,000 on the third and subsequent violations and referred to the commission. The purse shall be redistributed commencing with the fourth violation within a 12-month period.

b. On extraordinary violation(s) of Classes IV or V in a manner that might affect the performance of a horse within a 12-month period the penalty shall be a fine of \$1,000 on the first offense; a fine of \$1,000 and referred to the commission for further action on second and subsequent violations. The purse shall be redistributed commencing with the third violation within a 12-month period.

c. On gross violation(s) of Classes IV or V in a manner that intends to affect the performance of a horse the penalty shall be not less than \$1,000 and referred to the commission for further action. The purse shall be redistributed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19:612 (May 1993), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002).

Charles A. Gardiner III
Executive Director

0205#018

RULE
Office of the Governor
Division of Administration
Racing Commission

Pick Four (LAC 35:XIII.11601-11625)

The Louisiana State Racing Commission has adopted the following Rule.

Title 35
HORSE RACING
Part XIII. Wagering

Chapter 116. Pick Four

§11601. Description; Selection; Principle

A. The pick four is a form of pari-mutuel wagering. Bettors select the first horse in each of four consecutive races designated as the pick four by the permit holder. The principle of a pick four is in effect a contract by the purchaser of a pick four ticket to select the winners of each of the four races designated as the pick four. The sale of pick four tickets other than from pari-mutuel machines shall be deemed illegal and is prohibited.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002).

§11603. Wagering Pool

A. The pick four pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta, quinella or any other wagering pool. The pick four pool is a pool wherein the bettor is required to select four consecutive winning horses and is not a parlay.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002).

§11605. Denominations

A. Pick four tickets shall be sold in not less than \$1 denominations.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 28:1014 (May 2002).

§11607. Approval; Notation

A. Races in which pick four pools are conducted shall be approved by the Commission and clearly designated in the program, and pick four tickets will be clearly marked as pick four tickets.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002).

§11609. Procedure

A. After the wagering closes for the first race of the four designated pick four races, the commission will be deducted from the pari-mutuel pool in accordance with Louisiana law. The remaining net pool, subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winner in all four races comprising the pick four and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

1. In the event no ticket is sold combining winners of the four races comprising the pick four, the holders of tickets which include the winners of any three of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

2. In the event no ticket is sold combining the winners of three of the four races comprising the pick four, the holders of tickets which include the winners of any two of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

3. In the event no ticket is sold combining the winners of two of the four races comprising the pick four, the holders of tickets which include the winner(s) of any one of the four races shall be deemed winning ticket holders, and the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002).

§11611. No Winning Ticket

A. In the event no winning ticket is sold that would require the distribution of the pick four pool as mentioned in §11609, the association shall make a complete refund of the pick four pool.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002).

§11613. Cancelled Races

A. If for any reason one or more of the races comprising the pick four is/are cancelled or declared "no race," the net pool shall be distributed as provided in §11609.

B. In the event the pick four pool is opened and wagers accepted, and all four races comprising the pick four are cancelled for any reason, the association shall make a complete refund of the pick four pool.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002).

§11615. Dead Heats

A. In the event of a dead heat for win between two or more horses in any pick four race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002).

§11617. Closing Time; Disclosure

A. No pari-mutuel ticket for the pick four pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the four races comprising the pick four except for such refunds on pick four tickets as required by this regulation, and no person shall disclose the number of tickets sold in the pick four pool or the number or amount of tickets selecting winners of pick four races until such time as the stewards have determined the last race comprising the pick four to be official. At the conclusion of the third of the four races comprising the pick four, the association may display potential distributions to ticket holders depending upon the outcome of the fourth race of the pick four.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002).

§11619. Entry or Field

A. Those horses constituting an entry or a field as defined within the rules of racing shall race in any pick four race as a single wagering interest for the purpose of the pick four pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry or field selection in such race shall have no effect with respect to the status of such entry and/or field as a viable wagering interest.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002).

§11621. Scratches and Non-Starters

A. At anytime after wagering begins on the pick four pool should a horse, entire betting entry or field be scratched, excused or declared a non-starter in any pick four race, no further tickets selecting such horse, betting entry or field shall be issued, and wagers upon such horse, betting entry or field, for purposes of the pick four pool shall be deemed wagers upon the horse, betting entry or field upon which the most money has been wagered in the win pool at the close of win pool betting for such race. In the event of a money tie in the win pool, the tied horse, betting entry or field with the lowest running number, as designated by the official racing program, shall be designated as the favorite for substitution purposes. For the purpose of this Section, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the stewards. After close of betting, there shall be no refund, except as provided in §11611 or §11613.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002).

§11623. Display

A. These rules shall be prominently displayed in the betting area of the association conducting the pick four.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002).

§11625. Unforeseen Circumstances

A. Should circumstances occur which are not foreseen in these rules, questions arising thereby shall be resolved by the association and/or commission in accordance with general pari-mutuel practices. Decisions regarding distribution of the pick four pools shall be final.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002).

Charles A. Gardiner III
Executive Director

0205#020

RULE

**Office of the Governor
Office of Elderly Affairs**

**Eligibility Requirements and Definition of Legal Assistance
(LAC 4:VII.1215, 1223, and 1225)**

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) has amended Subchapter E, "Uniform Service Requirements" of the GOEA Policy Manual effective May 20, 2002. The purpose of the rule change is to update current policies to correct irregularities identified during the monitoring process.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter E. Uniform Service Requirements

§1215. Service Recipient Priorities and Eligibility Requirements

A.1. Persons who are 60 years of age or older may receive services provided using Older Americans Act and state senior center funds.

2. No one is entitled to services by virtue of age alone. GOEA's uniform intake and assessment instrument shall be used to determine the order in which older individuals will be served.

3. Persons age 60 and over who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated, shall be given priority in the delivery of services.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 102(29), Section 102(30), Section 305(a)(2)(E), Section 306(a)(1), Section 307(a)(24), and 45 CFR 1321.65 and 1321.69.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:868 (May 1999), LR 28:1016 (May 2002).

§1223. Title III-C Nutrition Services

A. A.4. ...

B. Participant Eligibility

1. - 1.d. ...

2. Home-Delivered Nutrition Services

a. Eligible participants include:

i. ...

ii. the spouse residing with the recipient, regardless of age or condition, may receive a home-delivered meal if, according to criteria determined by the AAA, receipt of the meal is in the best interest of the homebound older person.

B.2.b. - R. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(13), Section 313, and Section 336 and 45 CFR 1321.69(b).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), LR 16:505 (June 1990), LR 24:1930 (October 1998), LR 28:1016 (May 2002).

§1225. Legal Assistance Program

A. - A.1. ...

B. Definition

Legal Assistance C provision of legal advice, counseling and representation by an attorney or other person acting under the supervision of an attorney.

C. - G ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(15), and Section 307(a)(18).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999), LR 28:1016 (May 2002).

P.F. "Pete" Arceneaux, Jr.
Executive Director

0205#011

RULE

**Office of the Governor
Office of Elderly Affairs**

**Incorporation of Older Americans Act 2000 Amendments
(LAC 4:VII.Chapter 11)**

In accordance with Revised Statute 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) has amended the GOEA Policy Manual effective May 20, 2002. The purpose of the rule change is to update current policies to reflect requirements of the Older Americans Act 2000 amendments.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter A. State Agency on Aging

§1101. Office of Elderly Affairs

A. - C. 2. ...

3. Service Systems Development Functions

a. - g. ...

h. to develop Elder Rights Protection Systems focused on protecting the rights of vulnerable older individuals who reside in the community and in institutional settings. It includes the provision of Long Term Care Ombudsman services; Legal Assistance Development; Elder Abuse, Neglect and Exploitation prevention.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307, 701 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2199 (November 1999), LR 28:1016 (May 2002).

§1105. State Plan on Aging

A. ...

B. Content of the State Plan

1. - 6. ...

7. The projected costs of providing services for older individuals residing in rural areas (including the cost of providing access to such services) for each fiscal year to which the plan applies.

8. The methods used to meet the needs for services for older individuals residing in rural areas in the fiscal year preceding the first year to which such plan applies.

9. A grievance procedure for older individuals who are dissatisfied with or denied services under Title III of the Older Americans Act.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 306, 307, OAA Section 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2205 (November 1999), LR 28:1016 (May 2002).

Subchapter B. Area Agency on Aging

§1121. Definitions

* * *

Native American Any person who is a member of an Indian tribe or any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

* * *

AUTHORITY NOTE: Promulgated in accordance with OAA Section 102 (20), 305(a)(2)(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:70 (January 2000), LR 28:1017 (May 2002).

§1125. Area Agency on Aging Standards

A. - B. ...

C. Pooling/Coordination

1. - 3. ...

4. Each area agency on aging shall coordinate services described in OAA Sec. 321(a) of the Older Americans Act with other community agencies and voluntary organizations providing the same services. In coordinating the services, the area agency on aging shall make efforts to coordinate the services with agencies and organizations carrying out intergenerational programs or projects.

5. Where possible, the AAA shall enter into arrangements with organizations providing day care services for children or assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families.

6. The AAA shall facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including:

a. development of case management services as a component of the long-term care services, consistent with the requirements of Sec. 306(a)(8) of the Older Americans Act;

b. involvement of long-term care providers in the coordination of such services; and

c. increasing community awareness of and involvement in addressing the needs of residents of long-term care facilities.

7. The AAA shall establish procedures for coordination of services with entities conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b) within the planning and service area.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(1), 306(a)(6)(C)(i), 306(a)(7), 306(a)(12), 321(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:71 (January 2000), LR 28:1017 (May 2002).

§1133. Area Plan

A. - B. ...

C. Content of the Area Plan

1. - 2. ...

3. Each area plan shall designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations providing day care services for children or assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families as such focal point).

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306, and Section 307.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:57 (January 1991), LR 18: 1376 (December 1992), LR 26:75 (January 2000), LR 28:1017 (May 2002).

§1141. Priority Services

A. General Rules

1. - 1.a. ...

b. in-home services, including supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction: 15 percent; and

c. ...

2. The area agency on aging shall report annually to the state agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded.

3. GOEA shall waive the requirement in §1141.A.1 of this manual for any category of services described in such Paragraph if the AAA demonstrates to GOEA that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.

4. If a waiver is issued by the Governor's Office of Elderly Affairs for any category of priority service, the area agency must assure that an adequate proportion of its supportive services funds are allocated to the remaining priority services categories.

B. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2), Section 306(b), and Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18:610 (June 1992), LR 26:77 (January 2000), LR 28:1017 (May 2002).

§1143. Service Procurement

A. - B. ...

B.1. Area agencies may directly deliver Information and Assistance, and Outreach.

B.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section OAA Sec. 307(a)(8)(C), 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1885), LR 11:1078 (November 1985), LR 16:503 (June 1990), LR 18:610 (June 1992), LR 26:77 (January 2000), LR 28:1017 (May 2002).

Subchapter E. Uniform Service Requirements

§1229. Office of the State Long Term Care Ombudsman

A. - B. ...

C. Functions of the Office of the State Long Term Care Ombudsman

1. - 8. ...

9. to coordinate services with state and local law enforcement agencies and courts of competent jurisdiction.

D. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 712.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), LR 18:267 (March 1992), LR 24:1928 (October 1998), LR 28:1018 (May 2002).

§1231. Senior Community Service Employment Program

A. Purpose. The purpose of the Senior Community Service Employment Program is to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years or older and who have poor employment prospects, and in order to foster individual economic self-sufficiency and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 502, 20 CFR Part 674 and Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:1766 (September 1998), LR 28:1018 (May 2002).

P.F. "Pete" Arceneaux, Jr.
Executive Director

0205#012

RULE

**Office of the Governor
Office of Women's Services**

Domestic Violence Projects (LAC 4:VII.1747 and 1749)

In accordance with the Administrative Procedure Act R.S. 49:950 et seq., the Executive Director of the Governor's Office of Women's Services (OWS) has adopted the following Rules for the implementation of domestic violence projects to further the goals of and the intentions of the federal Temporary Assistance to Needy Families Block Grant funds. This Rule facilitates expenditures of Temporary Assistance to Needy Families (TANF) funds authorized by Act 12 of the 2001 Regular Session of the Louisiana Legislature for support and implementation of the following domestic violence projects.

**Title 4
ADMINISTRATION**

Part VII. Governor's Office

Chapter 17. Women's Services

Subchapter E. Domestic Violence Projects

§1747. General Provisions

A. These programs will encourage the formation and maintenance of two-parent families by providing training and crisis services to assist women and children living in a "special needs" situation, family violence, in order to promote their safety, self-sufficiency and the opportunity to develop healthy non-violent two-parent families.

1. Rural Outreach. Designed to create new services, create coordinated community response teams, and develop a Rural Project Assistance Program for financial assistance.

2. Children's Services. Designed to create, increase and enhance children's services as outlined in the Office of Women's Services Quality Assurance Standards.

3. Domestic Violence Training for the Department of Social Services. Designed to provide Office of Family Support and Office of Community Services staff members with the ability to recognize and refer clients that may be in a domestic violence situation as it relates to their specific job duties.

4. Law Enforcement Training. Designed to create an advisory task force of law enforcement groups, provide training for law enforcement groups, and to provide resource/referral information to law enforcement training participants to take back their communities.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:1018 (May 2002).

§1749. Guidelines for Eligibility

A. There are no eligibility guidelines for training projects. Eligibility for Rural Project and Children's Project includes a family with parent/caretaker relative and child. Eligibility is valid if a child has been removed from the home due to domestic violence.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:1018 (May 2002).

Vera Clay
Executive Director

0205#009

RULE

**Office of the Governor
Office of Women's Services**

Microenterprise Development Program
(LAC 4:VII.1741 and 1743)

In Accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the executive director of the Governor's Office of Women's Services (OWS) has adopted the following rule for the implementation of the Microenterprise Development Program to further the goals of and the intentions of the federal Temporary Assistance to Needy

Families Block Grant funds. This rule facilitates expenditures of Temporary Assistance to Needy Families (TANF) funds as authorized by ACT 12 of the 2001 Regular Session of the Louisiana Legislature for the support of microenterprise development, in accordance with federal and state regulations (45 CFR Part 260 et seq. and LAC 67:III.Subpart 15).

Title 4
ADMINISTRATION
Part VII. Governor's Office

Chapter 17. Women's Services

§1741. General Provisions

A. The OWS Microenterprise Program will help families achieve self-sufficiency through the development of comprehensive microenterprise development opportunities as a strategy for moving parents on public assistance into self-employment and work thereby breaking the cycle of dependence on public assistance and moving families out of poverty. A microenterprise is a sole proprietorship, partnership or family business which has fewer than five employees. It is small enough to benefit from loans under \$25,000 and generally too small to access the commercial banking sector.

B. OWS will collaborate with DED in the implementation of this program according to mutually agreed upon terms. OWS's program design will encourage collaboration and partnerships between Community-Based Organization (CBO's), Community Development Corporations (CDC's), Small Business Development Centers (SBDC's) and other institutions as a vehicle for efficiency, reducing costs, and providing high quality, comprehensive services.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:1019 (May 2002).

§1743. Eligibility and Verification

A. Eligibility for OWS Microenterprise Development Program shall be determined by verifying eligibility for FITAP, KCSP, Food stamps, CCAP, Medicaid, LaChip, SSI or Free or Reduced School Lunch. If a family does not meet the definition of need, but appears to be eligible for one of the qualifying programs, the family should be referred to the appropriate agency. Upon being determined eligible for one of the qualifying programs, the family meets the definition of needy. Verification includes but is not limited to: Notices of Eligibility (as detailed in the following examples and provided to practitioner agency by the program participant), a copy of current SSI check, a documented phone call to certifying agency, written documentation from certifying agency, and electronic data exchange, if available.

B. Eligibility may also be determined by verifying that earned income levels fall at or below 200 percent of the federal poverty level. Contractors can use the TANF-EZ form to record information for eligibility determination. Examples of documented verification can include, but are not limited to: Notice of eligibility for FITAP, KCSP, Food Stamps, CCAP, Medicaid, LaChip, SSI or Free or Reduced School Lunch or most recent employment pay stub that verifies income, letter from employer stating wages, letter of termination from employment, or copy of most recent tax return. Verification documentation must be provided within

three days of application of services. Sub-Contractors shall be responsible for determining the TANF eligibility.

C. Documentation of each eligibility determination (approval or denial) must be maintained by and made available in accordance with Section VIII.B.3. Once eligibility is established, it is valid for a period of one year. However, funding of services will not extend past September 30, 2002.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:1019 (May 2002).

Vera Clay
Executive Director

0205#010

RULE

Department of Health and Hospitals
Office of the Secretary
and
Department of Social Services
Office of the Secretary

Community and Family Support System
Cash Subsidy (LAC 48:I.16103-16121)

The Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary has amended this Rule to implement Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature which created the Community and Family Support System (R.S. 28:772). The original Rule was promulgated to implement the Cash Subsidy Program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. This amendment will implement changes in eligibility criteria, the application process, acceptance to the waiting list for services and payment procedures.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 11. Community and Family Support System

Chapter 161. Community and Family Support System
Cash Subsidy

§16103. Definitions

Agency the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) which shall administer the cash subsidy program for the exceptionalities of developmental delay for children under the age of 9, autism, severe mental retardation, profound mental retardation, deaf/blind, traumatic brain injury, multi-handicapped, orthopedically handicapped and other health impaired or, the Office of Mental Health (OMH), which shall administer the cash subsidy program for the exceptionality, emotional/behavioral disorder.

Appropriate Documentation for Exceptionalities Served by the OCDD the most recent report, current within a year, which demonstrates parental participation with the Louisiana

State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. No evaluation or assessment can be accepted into consideration for eligibility determination unless incorporated into the report of exceptionality generated through the local school system. Documentation of any kind that is not current within a year cannot be accepted into consideration for eligibility determination. Appropriate documentation includes: the Department of Education 1508 Evaluation (for infants and toddlers, this may be called a Multidisciplinary Evaluation for Part H Services); the Individualized Education Plan (IEP); an approved home study plan; or, the Individual Family Service Plan (IFSP).

Appropriate Documentation for the Exceptionality Served by the OMHC the Department of Education 1508 Evaluation of the Individualized Education Plan (IEP), current within a year; or, evidence of an Interagency Service Coordination Process; or, a certification from a licensed mental health professional that the child meets the Department of Education's criteria for emotional/behavioral disorder; or a current treatment plan from a licensed community mental health center.

Cash Subsidy Ca monetary payment to eligible families of children with severe or profound developmental disabilities to offset the costs of keeping their child at home.

Child Can individual under the age of 18.

Developmental Disability for a Person Age 5 and Older Ca severe, chronic disability which:

1. is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. is manifested before the person attains age 22;
3. is likely to continue indefinitely;
4. results in substantial functional limitations in three or more of the following areas of major life activity: self care, receptive language, expressive language, learning, mobility, self-direction, and capacity for independent living; and,
5. reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of life-long or extended duration and are individually planned and coordinated.

Licensed Mental Health Professional Ca person credentialed to provide mental health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

Qualifying Exceptionality Only the following exceptionalities identified through the Department of Education's 1508 Evaluation Process may be considered for the cash subsidy from the OCDD: autism, deaf/blind, profound mental retardation, severe mental retardation, multi-handicapped, orthopedic handicap, other health impaired, traumatic brain injury and developmentally delayed for children under the age of 9; other exceptionalities listed through that process are not eligible for participation in the cash subsidy program except that the exceptionality, emotional/behavioral disorder may be considered for the cash subsidy from the OMH.

Responsible Care Giver Ca child's natural or adoptive mother or father or the person who is responsible for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002).

§16105. Application Process

A. Applications for cash subsidy will be accepted by mail only; the responsible care giver shall be responsible for completing the application and for timely submission of appropriate documentation of a qualifying exceptionality. Support coordination agents may assist in the process but the final responsibility for compliance with program guidelines remains with the responsible care giver

B. To be deemed complete, the documentation listed in §16103 which identifies an eligible exceptionality must accompany the application for the cash subsidy and the application must be signed by the responsible care giver and received by the appropriate program office through the mail. The OCDD and OMH shall screen applicants for the cash subsidy at the point of application to determine whether the child is appropriately served by the OCDD or the OMH and ensure that applications are routed to the appropriate program office.

C. Only when deemed complete will applications be placed on the waiting list for eligibility determination with a date of application of the envelope containing the complete application. Applications will be maintained on the waiting list only in the region in which the applicant lives; no child may be placed on a waiting list or receive a cash subsidy from more than one region or program office.

D. Responsible care givers will receive timely confirmation of the date of receipt of the initial completed application and of their date of application on the waiting list for eligibility determination, and annually thereafter.

E. There shall be no closing date for accepting applications; a responsible care giver may submit a new application at any time an application or cash subsidy is terminated for any reason other than exceeding the eligible age for participation in the cash subsidy program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:910 (June 20, 2001), LR 28:1020 (May 2002).

§16107. Determining Children Eligible for the Cash Subsidy

A. In all cases, the exceptionality reported on the most current, current within a year, appropriate documentation shall be used to make a determination of eligibility for the cash subsidy program.

B. Evaluations not reported through the Department of Education's 1508 Process will not be accepted for consideration for exceptionalities served by the Office for Citizens with Developmental Disabilities; such evaluations shall be considered if/when reported through that process.

C. Children must be involved in an approved educational setting to be eligible for the cash subsidy; such settings may

include home schooling and other educational arrangements which have the approval of the local educational agency.

D. Children must meet the criteria for developmental disability and severity of exceptionality, as appropriate, to be eligible for the cash subsidy program through the OCDD, except that children under the age of 5 who meet the severity criteria will be considered to be developmentally disabled.

1. If a child is classified with the following primary or secondary exceptionalities, the child is eligible for the cash subsidy from the OCDD without a screening of the severity of their exceptionality: autism, deaf-blind, profoundly mentally handicapped, severely mentally handicapped, and multi-handicapped.

2. If a child is classified with the following primary or secondary exceptionalities, the child shall be screened by the OCDD to determine whether they meet the severity criteria specific to their exceptionality: Developmental delay for children to age 9, orthopedically handicapped, other health impaired, and traumatic brain injury. Only children who meet the established criteria for severity of exceptionality shall be eligible to receive the cash subsidy.

E. If a child is classified with a primary or secondary exceptionality of emotional/behavioral disorder or presents other appropriate documentation that identifies an emotional/behavioral disorder, the child shall be screened by the OMH to determine whether they meet the severity criteria specific to that exceptionality in order to be eligible to receive the cash subsidy.

F. Children who are adopted are eligible for the cash subsidy, including families who are receiving a specialized adoption subsidy; families who have more than one child who meets the eligibility criteria will be eligible for the cash subsidy amount for each child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:910 (June 20, 2001), LR 28:1020 (May 2002).

§16109. Children Ineligible for the Cash Subsidy

A. These children are not eligible for the cash subsidy: children living in out-of-home settings, such as children who live in foster care or specialized foster care settings; children living and/or attending schools outside the state of Louisiana; children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired.

B. Any removal of the cash subsidy recipient from the home of the responsible care giver that exceeds 30 days may be considered an out-of-home placement, except that acute care hospitalization does not disqualify a child from receiving the cash subsidy and psychiatric hospitalizations of up to 90 days are not automatically considered out-of-home placements. With appropriate documentation, the responsible regional program office shall make an individual assessment of the continuation of the cash subsidy in light of family situation and circumstances.

C. It will be the responsibility of the responsible care giver to notify the regional program office when a child is removed from the home; failure to notify the responsible regional program office of such removal shall be potential grounds for termination of the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:910 (June 20, 2001), LR 28:1021 (May 2002).

§16111. Eligibility Determination

A. The OCDD Regional Offices and the OMH shall be responsible for determination of eligibility of all applicants for the cash subsidy for which they have responsibility.

B. An initial determination for eligibility for the cash subsidy will be made at the time that a slot becomes available; if receiving the cash subsidy, an annual determination of eligibility shall be made for the duration of eligibility for the cash subsidy.

C. At any time a responsible care giver cannot provide adequate and appropriate documentation of a qualifying exceptionality, the responsible care giver may request the local school agency to provide an alternative or re-evaluation of the child's exceptionality.

1. If the request for re-evaluation occurs at the point of initial determination of eligibility, the eligibility determination process will be held open for the period of re-evaluation, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will begin in the month that the next slot becomes available.

2. If the request for re-evaluation occurs at the point of annual determination of eligibility, the cash subsidy will be discontinued until the re-evaluation becomes available, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will resume in the month when the determination is made.

D. The OCDD Central Office shall be responsible to maintain a centralized waiting list of all cash subsidy applicants to the OCDD throughout the state according to their date of application. The OCDD, in concert with the OMH, shall be responsible to ensure that applicants for the cash subsidy program administered by the OMH are not receiving the cash subsidy from the OCDD.

E. There shall be no financial criteria for eligibility for the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:911 (June 20, 2001), LR 28:1021 (May 2002).

§16113. Payment Guidelines

A. The amount of the cash subsidy shall be \$258 monthly to families of eligible children with severe and profound disabilities to off-set the cost of keeping their child at home; families will not be required to document how the subsidy is used.

B. The termination date for a child attaining age 18 shall be the last day of the month of that birthday.

C. If for any reason a recipient receives excess payment, repayment of that amount will be requested. Failure to cooperate with repayment will be referred to DHH for recoupment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:911 (June 20, 2001), LR 28:1021 (May 2002).

§16115. Terminations

A. Reasons for termination may include the following: family moves out of state; family requests termination of cash subsidy payment; child is placed out of the home or attends school away from the home or in another state; death of the child; judicial removal of the child from the home; fraud; theft; termination or limitation of funding of the program; failure to comply with the provisions of the individual agreement or the cash subsidy program including the requirement to maintain quarterly contact with the office administering the cash subsidy; child's exceptionality no longer meets eligibility criteria; child attains age 18; and, responsible care giver fails to maintain the child in an approved educational program whether on-site or in-home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:911 (June 20, 2001), LR 28:1022 (May 2002).

' 16117. Ongoing Monitoring

A. The responsible care giver is responsible to maintain contact with the regional program office staff in the area in which the family resides at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and cash subsidy program are being met. Licensed case management programs, if available to the cash subsidy recipient, shall be responsible for this quarterly contact and for timely documentation of the contact to the regional program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:911 (June 20, 2001), LR 28:1022 (May 2002).

§16119. Appeals

A. All persons receiving an eligibility determination and/or cash subsidy shall have access to the Department of Health and Hospitals= appeal process and shall be informed of their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a cash subsidy for any reason other than exceeding the eligible age for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:911 (June 20, 2001), LR 28:1022 (May 2002).

§16121. Program Evaluation

A. An annual external evaluation based on consumer satisfaction with the program and performance may be completed by the responsible program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:911 (June 20, 2001), LR 28:1022 (May 2002).

Gwendolyn P. Hamilton
Secretary

0205#065

RULE

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

**Home and Community Based Services Waiver Program
Mentally Retarded/Developmentally Disabled Waiver
Allocation of Waiver Slots**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services has amended the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is amended 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 Community Supports and Services amends the provisions contained in the September 20, 1999 rule governing the programmatic allocation of waiver slots for the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver as follows.

Programmatic Allocation of Slots for MR/DD Waiver

The Bureau of Community Supports and Services (BCSS) request for services registry, formerly the MR/DD waiver waiting list, shall be used to evaluate individuals for waiver eligibility. This request for services registry will be used to fill all waiver slots administered by the BCSS for persons with mental retardation or developmental disabilities. BCSS shall notify the next individual on the request for services registry, in writing, that a slot is available and that he/she is next in line to be evaluated for possible waiver slot assignment. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible, either financially or medically, that individual is notified in writing. The next person on the request for services registry is notified as stated above and the process continues until an eligible person accepts a waiver slot. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Before placing a person in an appropriate slot, the person must consent to the removal of their name from the request for services registry. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited as follows:

1. A minimum of 90 slots shall be available for allocation to foster children in the custody of the Office of Community Services (OCS), who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS is the guardian for children

who have been placed in their custody by court order. OCS shall be responsible for assisting the individual in gathering the documents needed in the eligibility determination process, preparing the comprehensive plan of care, and submitting the plan of care document to Medicaid.

2. A minimum of 160 slots shall be available for residents of Pinecrest and Hammond Developmental Centers, or their alternates, who have chosen to be deinstitutionalized, who successfully complete the financial and medical certification eligibility process, and are certified for the waiver. In situations where alternates are used, an alternate shall be defined as a resident of an ICF/MR facility who chooses to apply for waiver participation, is eligible for the waiver, and vacates a bed in the ICF/MR facility for an individual being discharged from a publicly operated ICF/MR developmental center. A Pinecrest or Hammond Developmental Center resident must be given freedom of choice in selecting a private ICF-MR facility placement in the area of the residents choice in order to designate the resident being discharged from the ICF-MR facility as an alternate. The bed being vacated in the ICF/MR facility is reserved for placement of a resident of a publicly operated ICF/MR developmental center for 120 days.

3. Any slots vacated during the waiver year shall be available to residents leaving any publicly operated ICF/MR or their alternates. In situations where alternates are used, an alternate shall be defined as a resident of an ICF/MR facility who chooses to apply for waiver participation, is eligible for the waiver, and vacates a bed in the ICF/MR facility for an individual being discharged from a publicly operated ICF/MR developmental center. The bed being vacated in the ICF/MR is reserved for placement of a resident of a publicly operated ICF/MR developmental center for 120 days.

4. For those individuals who do not complete the transition process and move from either a publicly operated developmental center or an ICF/MR facility during the 120-day reservation period, the waiver slot will be converted to a community slot for processing. Justification to exceed the 120-day reservation period may be granted by the BCSS as needed.

5. Ten waiver slots shall be used for qualifying persons with developmental disabilities who are clients of the Developmental Neuropsychiatric Program (DNP) administered by Southeast Louisiana State Hospital, for a pilot project between the BCSS, the Office for Citizens with Developmental Disabilities (OCDD), and the Office of Mental Health (OMH) in the development of coordinated wrap around services for individuals choosing to participate in the waiver and who meet the financial and medical eligibility requirements for the waiver.

6. Funded slots, not addressed above, shall be available for allocation to the next individual on the BCSS request for services registry who successfully completes the financial and medical certification eligibility process and is certified for the waiver.

The Bureau of Community Supports and Services has the responsibility to monitor the utilization of waiver slots. At the discretion of the BCSS, specifically allocated slots may

be reallocated to better meet the needs of citizens with disabilities in the state of Louisiana.

David W. Hood
Secretary

0205#074

RULE

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

Laboratory and X-Ray
(LAC 50:XIX.Chapters 41 and 43)

Editor's Note: The following Subpart has recently been compiled and is being promulgated for codification purposes.

The table below shows the rules compiled to create each Section in Subpart 3, Laboratory and X-Ray.

Section Number	Rules
§4101	LR 8:75 (February 1982)
§4301	LR 5:388 (December 1979), LR 10:1034 (December 1984), LR 12:679 (October 1986), LR 22:107 (February 1996)
§4303	LR 5:388 (December 1979), LR 10:599 (August 1984), LR 13:578 (October 1987)
§4305	LR 10:1034 (December 1984), LR 22:219 (March 1996)
§4307	LR 22:219 (March 1996)
§4309	LR 22:219 (March 1996)
§4311	LR 22:219 (March 1996)
§4313	LR 22:219 (March 1996)
§4315	LR 22:219 (March 1996)
§4317	LR 22:219 (March 1996)
§4329	LR 8:75 (February 1982), LR 10:1034 (December 1984), LR 12:679 (October 1986), LR 22:107 (February 1996)
§4331	LR 26:2622 (November 200)
§4333	LR 23:414 (April 1997)

**Title 50
PUBLIC HEALTHC MEDICAL ASSISTANCE**

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 41. Enrollment

§4101. Physician Office Services

A. Payment is limited to laboratory and diagnostic testing performed in a physician's office. Claims for these tests will be paid only when the physician has on file with the Provider Enrollment Section, a complete list of the laboratory and diagnostic equipment, the capabilities of such equipment, and permits verification of this data in accordance with the provider agreement.

B. Only those physicians who desire to claim reimbursement for laboratory or diagnostic tests performed in their offices need to complete and return the form. The laboratory and diagnostic equipment which needs to be reported is that equipment which is not common to all physicians' offices and for whose use there are specific CPT-IV codes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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 28:1023 (May 2002).

Chapter 43. Billing and Reimbursement

Subchapter A. Billing

§4301. Laboratory Testing Services

A. Independent and hospital laboratories who furnish laboratory services may bill a nominal amount for the collection of a patient specimen. However, only one collection fee per patient encounter will be permitted.

B. Physicians may bill for laboratory services only when they personally perform or supervise the test. Hospital laboratories will no longer be reimbursed for outpatient or nonpatient laboratory services furnished under arrangements with independent laboratories or other hospitals, except where the hospital performed some of the tests. Where a hospital performs some of the tests and refers the specimen to another hospital or independent laboratory, either the hospital may bill for all tests or the hospital and the reference laboratory may each bill for the service they provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, 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 28:1024 (May 2002).

§4303. Provider Claim Requirements

A. Definition

Claim a single document line identifying the services and/or charges for services for a single recipient from a single provider.

B. Providers shall submit all original claims no later than 12 months from the date of service.

C. The provider shall be allowed up to two years from the date of service to provide adequate billing information to the fiscal intermediary necessary for adjudicating the claim. Any claim for which the fiscal intermediary has not received documentation necessary for adjudication within two years from the date of service shall be denied.

D. Providers shall be required to submit any adjustments within 120 days of adjudication of a claim. This requirement shall not apply to adjustments arising from Third Party Liability or Patient Liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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 28:1024 (May 2002).

§4305. Automated, Multichannel Test and Panel Billing

A. Procedure Code 84478 (Triglycerides) is included in the list of automated, multichannel tests enumerated under the heading "Automated, Multichannel Tests" in the 1995 issuance of the Physicians' Current Procedural Terminology.

B. A panel code (80002 - 80019) must be billed after the performance of the first, rather than the second, automated, multichannel test.

C. If more than one of the codes listed below is billed by the same billing provider for the same recipient for the same date of service, the first billing will be paid and the second

will be denied with the message, "Muti blood tests billed; to be combined to panel."

82040	82250	82251	82310	82315	82320
82325	82330	82374	82435	82465	82565
82947	83615	83620	84060	84075	84100
84132	84155	84295	84450	84455	84460
84465	84520	84525	84550	83624	83610
82555	84478	82550	84160		

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), 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 28:1024 (May 2002).

§4307. Hepatic Function Panel and General Health Panel

A. If individual tests and panel codes are billed for the same recipient for the same date of service by the same billing provider, the first billing will be paid and the second billing will be denied with the message "Blood component billed with panel code."

B. The panel codes begin with 80002 and extend through 80019 and include panel codes 80050 and 80058. The individual codes included in this edit are the ones listed under §4305.C of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), 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 28:1024 (May 2002).

§4309. Hematology

A. Incorrect billings of hematology components, indices and profiles will be denied with the message, "Hematology components/indices/profiles billed incorrectly."

B. Only one of codes 85021 - 85027 shall be paid to the same billing provider for the same recipient for the same date of service. A second billing of any of these codes on the same date of service for the same recipient by the same billing provider will be denied. Code 85021 should be billed by itself or one of 85022, 85023, 85024, 85025 or 85027 should be billed.

C. The billing of more than two of the hematology component codes (85007, 85014, 85018, 85041, 85048, 85595) by the same billing provider for the same recipient for the same date of service will result in denial of the third code in this group as a profile code should be billed if more than two tests in this group are performed.

D. The billing of one of the above profile codes (85021 - 85027) and one or more of the component codes 85014, 85018, 85041 or 85048 by the same billing provider for the same recipient for the same date of service will result in payment of the first billing and denial of the second as the component codes are included in the profile codes.

E. The billing of code 85007 and codes 85022 and/or 85023 on the same date of service for the same recipient by the same billing provider will result in payment of the first claim and denial of the second. Procedure code 85007 is included in codes 85022 and 85023.

F. A billing of code 85595 and codes 85023, 85024, 85025 and/or 85027 by the same billing provider for the

same recipient for the same date of service will result in payment of the first claim and denial of the second claim. Procedure code 85595 is included in codes 85023, 85024, 85025 and 85027.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), 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 28:1024 (May 2002).

§4311. Panel Codes

A. A billing of more than one panel code (80002 - 80019, 80050 and 80058) on the same date of service for the same recipient by the same billing provider will result in denial of the second billing with the message, "Max allowed. One panel per day per billing provider."

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), 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 28:1025 (May 2002).

§4313. Prenatal Lab Panels

A. A billing of more than one prenatal lab panel code (Z9001, Z9002, Z9003) on the same date of service for the same recipient by the same billing provider will result in denial of the second billing with the message, "One prenatal panel per pregnancy payable."

B. Only one prenatal lab panel code is to be paid per pregnancy. Therefore, a second billing of Z9001, Z9002 or Z9003 within a 270-day period by the same billing provider for the same recipient will be denied with the message, "Max allowed. Only one payable per pregnancy."

C. Procedure code 80055 (Obstetric Panel) will be placed in nonpay status as the Louisiana Medicaid Program has locally-assigned codes for prenatal lab panels.

D. Providers who have been reimbursed for a Z9001, Z9002 or Z9003 on a recipient will not be reimbursed also for codes 85018, 85022, 85025, 86592, 86762, 86900, 86901 or 86850 on that same recipient.

E. Only one claim for code 81000 will be reimbursed per recipient per pregnancy (270 days) per billing provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), 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 28:1025 (May 2002).

§4315. Urinalysis

A. A billing of code 81000 and one or more of 81002, 81003, or 81015 by the same billing provider for the same recipient for the same date of service will result in denial of the second billing with the message, "Urinalysis billed incorrectly" because 81002, 81003 and 81015 are inappropriate with 81000.

B. A billing of code 81002 and 81003 on the same date of service for the same recipient by the same billing provider will result in denial of the second claim with the same message because the descriptions of the two codes are contradictory.

C. A billing of code 81001 and 81002, 81003 or 81015 on the same date of service for the same recipient by the same billing provider will result in denial of the second claim as the descriptions of the latter three codes are contradictory to that of code 81001.

D. A billing of code 81000 and 81001 on the same date of service for the same recipient by the same billing provider

will result in denial of the second claim as the two codes have contradictory descriptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), 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 28:1025 (May 2002).

§4317. Panels and Component Codes within Panels

A. A billing of panel code 80050 and component codes 80012 - 80019, 85022, 85025 and/or 84443 by the same billing provider on the same date of service for the same recipient will result in denial of the second claim with the message, "Billed panel and individual code within panel."

B. A billing of panel code 80058 and component codes 82040, 82250, 84075, 84450 and/or 84460 by the same billing provider on the same date of service for the same recipient will result in denial of the second billing with the same message.

C. If panel code 80059 is paid, component codes 86287, 86291, 86289, 86296, and 86302 will not also be paid on the same date of service for the same recipient to the same billing provider.

D. Subsections A - C of this Section also applies to panel codes 80061, 80072, 80090, 80091, 80092 and their components.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), 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 28:1025 (May 2002).

Subchapter B. Reimbursement

§4329. Physicians and Independent Laboratories

A. Reimbursement of clinical laboratory and x-ray services provided by physicians, and independent laboratories shall pay the lower of:

1. billed charges;
2. 85 percent of the state maximum amount for service; or
3. medicare maximum fee for the service.

B. Those services not subject to the Medicare fee schedule shall continue to be reimbursed to physicians and independent laboratories, based on maximums, or billed charges, whichever is less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, 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 28:1025 (May 2002).

§4331. Medicare Part B

A. The Medicare payment is compared to the Medicaid rate on file for procedure codes on Medicare Part B claims.

1. If the Medicare payment exceeds the Medicaid rate, the claim is adjudicated as a paid claim with a zero payment.

2. If the Medicaid rate exceeds the Medicare payment, the claim is reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

B. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, 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 28:1025 (May 2002).

§4333. Outpatient Hospital Laboratory Services Reimbursement

A. Hospitals are reimbursed for outpatient laboratory services as follows.

1. A uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule is established regardless of the setting in which the services are performed. The reimbursement rate for outpatient hospital laboratory services subject to the Medicare fee schedule are reimbursed at the same reimbursement rate for laboratory services provided in a non-hospital setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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 28:1026 (May 2002).

0205#034

RULE

Department of Public Safety and Corrections Board of Pardons

Discretionary Powers of the Board (LAC 22:V.105)

The Louisiana Board of Pardons, in accordance with R.S. 49:950 et seq., has amended LAC 22:V.105, Discretionary Powers of the Board. This Rule is being amended to facilitate the handling of favorable recommendations from the Louisiana Risk Review Panel.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 1. Applications

§105. Discretionary Powers of the Board

A. - D. ...

E. When the Louisiana Board of Pardons receives a favorable recommendation from any of the three existing Louisiana Risk Review Panels (South, Central and/or North Louisiana Risk Review Panel), said recommendation shall be accepted and, with a completed application, may be processed in the same manner as a favorable decision by the Board of Pardons on any application considered under the provisions of this Section without the necessity for further consideration. A Risk Review Panel recommendation and application may be set for a hearing at a time and date designated by the chairman, at his sole discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062

(December 1990), amended LR 24:1133 (June 1998), LR 28:1026 (May 2002).

Irvin L. Magri, Jr.
Chairman

0205#063

RULE

Department of Public Safety and Corrections Corrections Services

Home Incarceration/Electronic Monitoring Pilot Program (LAC 22:I.401)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:571.35 as amended by Act 1139, 2001 Regular Session, and with the Administrative Procedure Act, R.S. 49:950 et seq., has adopted a rule to be published as LAC 22:I.401, Home Incarceration/Electronic Monitoring Pilot Program, to be administered under the Division of Probation and Parole.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 4. Home Incarceration/Electronic Monitoring Pilot Program

§401. Home Incarceration/Electronic Monitoring Pilot Program

A. Authority. Director of Probation and Parole as per R.S. 15:571.35, as amended by Act 1139 of the 2001 Regular Session of the Legislature.

B. Purpose

1. To establish guidelines and procedures for implementation of a pilot program of home incarceration and electronic monitoring for selected, eligible, first time offenders as an alternative to traditional imprisonment as required by Act 1139.

2.a. To establish and implement a program evaluation process in regard to the below listed factors:

- i. security;
- ii. beneficial and detrimental effects on the inmate;
- iii. projected probable effects on deterrence;
- iv. cost;
- v. labor intensiveness; and
- vi. other related measures of effectiveness.

b. This evaluation shall provide the required information on the pilot program, as well as a comparison with traditional imprisonment and be presented to the Joint Legislative Committee on the Budget, the Senate Committee on the Judiciary, Section C, and the House Committee on the Administration of Criminal Justice no later than 30 days prior to the first day of the 2003 Regular Session of the Legislature.

C. Applicability. All personnel of the Division of Probation and Parole involved in this pilot program.

D. Definitions. Definitions of key terms are as follows.

Sex Crimes For the purpose of this policy, *sex crimes* are defined as those crimes listed in R.S. 15:542.E, including attempts to commit the crime.

Crimes of Violence For the purpose of this policy, *violent crimes* are defined as those crimes listed in R.S. 14:2(13), including attempts to commit the crime.

Entry Points Offender selection can occur at two entry points in the judicial process: initial sentencing or during the violation process.

Eligibility Defendants convicted of a non-violent, first offense are eligible for program participation with two exceptions:

- a. sex crimes;
- b. producing, manufacturing, distributing or dispensing a controlled dangerous substance or possession with the intent to produce, manufacture, distribute or dispense a controlled dangerous substance under the provisions of the Uniform Controlled Dangerous Substance Law, R.S. 40:961 et seq.

Home Incarceration Can alternative to traditional imprisonment in which the offender is supervised in the community under the conditions of probation as set forth in CCrP Article 895 and may include any other condition reasonably related to implementing or monitoring a sentence of home incarceration including electronic monitoring, curfews, and limitations of the offender's activities outside the home.

Electronic Monitoring The use of electronic monitoring technologies as a tool to enhance supervision and control of participating offenders in the community, compatible with our mission of public safety.

Traditional Imprisonment Term of incarceration an offender is sentenced to by the court at the time of their initial sentencing or as a result of the probation violation process.

E. Policy

1. It is the policy of this division to develop and implement a pilot program of home incarceration and electronic monitoring as an alternative to traditional imprisonment for eligible offenders.

2. This program will commence on November 1, 2001, and continue until appropriated funding is exhausted or further legislative action is taken.

3. Rules and regulations for the development, implementation and administration of this pilot program will be developed, adopted and promulgated in compliance with the provisions of the Administrative Procedure Act. These rules and regulations are set forth in the "procedures" section of this policy.

4. This program will be evaluated as required by Act 1139 and the results of this evaluation will be reported to the legislative committees as required.

F. Procedures

1. Participation

a. The selection of districts to participate in the pilot program will require that a sufficient number of offenders meeting the eligibility requirements are available and have concurrence of the court and district attorney to participate in the program.

b. Once the participating districts have been chosen, they will develop an offender identification and selection process involving the participation of the court and district

attorney. Since the screening process will involve the court and district attorney, it is left to each district to develop a process acceptable to all parties.

2. Identification and Screening of Potential Participants. Eligible and suitable offenders will be identified and screened for participation in the program prior to initial sentencing and during the violation process prior to the revocation hearing.

a. Identification at Initial Screening. The most difficult aspect of the selection process will be in identifying which eligible offenders due for sentencing are likely to receive a sentence of traditional incarceration. When the court orders a pre-sentence investigation, it will be used to screen for and recommend eligible and suitable candidates for this pilot program. The pre-sentence investigation format summary and recommendation section has been revised to facilitate this process. However, most offenders are sentenced without the benefit of a pre-sentence investigation. Participating districts will develop an offender identification and selection process involving the participation of the court and district attorney that is acceptable to all parties. Most courts normally place offenders who are eligible for this program on probation since they are non-violent, first offenders. Some examples of appropriate candidates from this group would be those who are uncooperative while on bond, those who are re-arrested for minor offenses while awaiting sentencing or who are otherwise non-compliant and present an enhanced risk which can be addressed through this program with electronic monitoring.

b. Identification at Violation Process. The court may be more willing to place an offender in this program pursuant to the violation process. Screening would be required for all eligible offenders in the violation process prior to the revocation hearing with our focus on offenders who are likely to receive a sentence of incarceration. We should recommend violators who may be safely maintained in the community with this enhanced form of supervision and electronic monitoring.

3. Selection Process

a. Once an offender has been identified as a potential, suitable participant in the program, the concurrence of the court and district attorney that the offender is likely to respond affirmatively to this program must be obtained.

b. The offender must have a willingness and ability to participate in this program. Participation in home incarceration and electronic monitoring programs have a number of unique requirements, such as a suitable residence. Since the offender will be required to remain in the residence during specified periods which will likely be longer than normal, the environment in the residence must be conducive to the offender's successful participation in this program. For example, the other residents must be agreeable to and supportive of the offender's participation in the program. They cannot be involved in criminal activity, such as drug use. The residents must also comply with the needs of the electronic monitoring system, such as a telephone and other restrictions. The offender must understand and agree to comply to all requirements of the program prior to placement.

4. Processing

a. The processing of an offender into the pilot program will consist of two basic steps:

i. the offender must be explained the specific requirements and restrictions of the home incarceration and electronic monitoring program and given this information in writing with a signed copy for our file, the same as the general conditions of probation;

ii. secondly, the offender must be entered into the electronic monitoring program, that is having the home base unit installed in the offender's home and the electronic bracelet connected.

b. The processing of an offender for the program should be performed with the same urgency and thoroughness as with Specialized Sex Offenders. The first step of the processing should be completed on the date of sentencing, if possible. If not, then it should be completed as soon as possible afterward. The second step of actually "hooking" the offender to the electronic monitoring system may not be completed that same day, due to geographic or other considerations. However, it is our policy to enter the offender in the electronic monitoring phase of the program as quickly as possible.

5. Supervision

a. The supervision policy for the Home Incarceration/Electronic Monitoring Pilot Program is set forth in the Probation & Parole Officer's Manual in Chapter 3C Alternative Community Based Programs; #4C Home Incarceration/Electronic Monitoring Pilot Program Act 1139. This policy details all aspects of the Home Incarceration and Electronic Monitoring Program, including the use of electronic monitoring as a supervision and monitoring tool, curfews, home visits by the supervising officer, limitations of offender activities outside the home and various requirements which may be imposed, such as maintaining employment, attending substance and/or mental health treatment, vocational and/or educational programs, etc.

b. Initially, curfews and other restrictions will be structured to seriously limit the offender's time and activities outside the home. These restrictions will be adjusted according to the offender's performance and adjustment in the program. It is the goal of the program to ease these restrictions consistent with the offender's positive adjustment to supervision until the offender can be transitioned into traditional supervision.

6. Violations

a. Minor Violations. Minor violations will be handled by the supervising officer. Sanctions for minor violations can be an extension of existing restrictions and the addition of new restrictions.

b. Major Violations or Continued Minor Violations. All major violations of this program or any other condition of probation will result in the offender being placed in the violation process and the matter being referred back to the court.

c. Continued minor violations that undermine the effectiveness and purpose of this program will also be handled through the formal violation process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Correction Services, LR 28:1026 (May 2002).

Richard L Stalder
Secretary

0205#062

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Imposition of Sanctions, Enforcement Actions of the Board, Managerial Representative on Premises, and Supplier Permit Criteria (LAC 42:VII.2325, 2955; IX.2174, 2931, 4103; and XIII.2325, 2955)

The Louisiana Gaming Control Board has amended LAC 42:VII.2325, 2955; IX.4103; XIII.2325, and has adopted IX.2174, 2931 and XIII.2955 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 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

Chapter 29. Operating Standards			

2955	Managerial Representative on Premises	\$25,000	18

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 25:1919 (October 1999), amended LR 27:1321 (June 1999), LR 28:1026 (May 2002).

Chapter 29. Operating Standards

§2955. Managerial Representative on Premises

A. Each licensee shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the licensee's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the licensee's internal controls as approved by the Division.

B. Each licensee shall provide, in writing, a current list of all Managerial Representatives on Premises. Each Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

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 27:770 (April 2000), amended LR 28:1028 (May 2002).

Part IX. Landbased Casino Gaming
Subpart 1. Economic Development and Gaming Corporation

Chapter 21. Applications, Suitability, Permitting and Licensing

§2174. Supplier Permit Criteria

A. The division shall determine whether suppliers providing goods and/or services to the casino operator or casino manager are legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by the casino operator or casino manager;
2. number of employees;
3. total customer base;
4. dollar volume of all sales compared to sales to the casino operator;
5. existence and nature of warehouse and storage facilities;
6. existence and number of commercial delivery vehicles owned or leased;
7. existence and nature of business offices, equipment and facilities;
8. whether the goods and/or services provided to the casino operator are brokered, and, if so, whether the actual supplier distributes through brokers as a common business practice;
9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1029 (May 2002).

§2931. Managerial Representative On Premises

A. The casino operator shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the casino operator's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the casino operator's internal controls as approved by the Division.

B. The casino operator shall provide, in writing, a current list of all Managerial Representatives on Premises. The Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1029 (May 2002).

Chapter 41. Enforcement Actions

§4103. Enforcement Actions of the Board

- A. - B. ...
- C. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

Chapter 29. Operating Standards			

2931	Managerial Representative on Premises	\$25,000	18

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 26:2305 (October 2000), LR 28:1029 (May 2002).

Part XIII. Riverboat Gaming

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

- A. - D. ...
- E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

Chapter 27. Accounting Regulations			

2713.C	Written Approval Required for Licensees own Calculation Procedure	\$5,000	12

2719.B	No Cash Wagers allowed	\$10,000	18
Chapter 29. Operating Standards			

2955	Managerial Representative on Premises	\$25,000	18

Chapter 31. Rules of Play			
3101	Authority & Applicability		
3101.A&C	Only Authorized Games allowed: 90 day trial period	\$25,000	24
3101.B	Games must be conducted according to rules and licensee's rules of play	\$5,000	12
3103	House Rules	\$5,000	12
3105	Submission of Rules	\$25,000	24
3107	Wagers	\$10,000	18
3109	Game Limits	\$5,000	12
3111	Publication of Payoffs	\$5,000	12
3113	Periodic Payoffs	\$5,000	12
3115	Blackjack	\$5,000	12
3117	Craps	\$5,000	12
3119	Roulette	\$5,000	12
3121	Mini-Baccarat	\$5,000	12
3123	Big Six Wheel	\$5,000	12
3125	Bouree	\$5,000	12

3127	Poker	\$5,000	12
3129	Variations of Poker	\$5,000	12
3131	Red Dog	\$5,000	12
3133	Sic Bo	\$5,000	12
* * *			
Chapter 42. Electronic Gaming Devices			
4202	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4204	Progressive EGDs	\$5,000	12
4205	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4208	Certification by Manufacturer	\$1,000	12
4211	Duplication of Program Storage Media	\$20,000	24
4212	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4213	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4214	Maintenance of Gaming Devices	\$20,000	24
4219	Approval of Associated Equipment; Application and Procedures	\$5,000	12
* * *			
4317	Destruction of Counterfeit Chips and Tokens	\$5,000	12
* * *			
4323	Approval and Specifications for Cards	\$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, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1318 (June 2000), LR 28:1029 (May 2002).

Chapter 29. Operating Standards

§2955. Managerial Representative On Premises

A. Each licensee shall establish a position designated as Managerial Representative on Premises. A Managerial Representative on Premises shall be on the licensee's premises at all times and shall have authority to immediately act on behalf of the general manager in any matter or concern of the board or division. A description of the duties and responsibilities of the Managerial Representative on Premises shall be included in the licensee's internal controls as approved by the Division.

B. Each licensee shall provide, in writing, a current list of all Managerial Representatives on Premises. Each Managerial Representative on Premises must have a valid current gaming employee permit and must be approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1030 (May 2002).

Hillary J. Crain
Chairman

0205#008

RULE

**Department of Revenue
Policy Services Division**

**Federal Income Tax Deduction
(LAC 61:I.1307)**

Under the authority of R.S. 47:293(3), R.S. 47:297.B, R.S. 47:295, R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:I.1307 relative to the federal income tax deduction.

Louisiana Revised Statute 47:293(3) defines "federal income tax liability" to mean "the total amount of tax due to the United States for the taxable period on the individual income tax return required to be filed by any taxpayer, except that social security taxes and self-employment taxes shall not be included." The adoption of LAC 61:I.1307 clarifies the federal income tax deduction.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by
the Secretary of Revenue**

Chapter 13. Income: Personal

§1307. Federal Income Tax Deduction

A. Individual income taxpayers who deduct the federal income tax liability defined in R.S. 47:293(3) and are due a credit for foreign taxes, shall be allowed two options for computing the federal income tax liability deduction. The taxpayer may either:

1. use a federal tax liability that has been reduced by the federal credit for foreign taxes allowed by Internal Revenue Code Section 27, and take the Louisiana credit for federal credits provided by R.S. 47:297.B; or

2. use a federal tax liability that has not been reduced by the federal credit for foreign taxes allowed by Internal Revenue Code Section 27, and forego any claim to the Louisiana credit for federal credits provided by R.S. 47:297.B.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:293(3), R.S. 47:297.B, R.S. 47:295, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 28:1030 (May 2002).

Cynthia Bridges
Secretary

0205#035

RULE

**Department of Social Services
Office of Family Support**

FITAP and Food Stamp Program Vehicle Exclusion
(LAC 67:III.1235 and 1949)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP), and Subpart 3, Food Stamps.

The agency now chooses to exclude the value of all vehicles from the FITAP and Food Stamp Program resource limits for eligibility.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

- 1. - 19. ...
- 20. vehicles;
- 21. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002).

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1949. Exclusions from Resources

- A.1. - 3. ...
- 4. the value of all vehicles.
- B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:656 (November 1987), amended in LR 13:249 (August 1987), LR 17:953 (October 1991), amended by the Department of Social Services, Office of Family Support in LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002).

Gwendolyn P. Hamilton
Secretary

0205#054

RULE

**Department of Transportation and Development
Office of the Secretary**

Title 70 Restructure (LAC 70:I and III)

Editor's Note: Title 70 has been restructured. The Chapters in Parts I and III have been divided into 5 new Parts by topic matter. These changes will be reflected in the December 2001 compilation of Title 70.

The following table shows the restructuring of Title 70. Each Chapter that was moved is listed, showing the former placement and the current placement.

Former Placement	Current Placement
I.Chapter 1	III.Chapter 1
I.Chapter 3	II.Chapter 1
I.Chapter 5	XXV.Chapter 1
I.Chapter 7	XXIII.Chapter 1
I.Chapter 9	XXIII.Chapter 3
I.Chapter 11	I.Chapter 1
III.Chapter 1	III.Chapter 3
III.Chapter 2	III.Chapter 5
III.Chapter 5	III.Chapter 7
III.Chapter 7	I.Chapter 3
III.Chapter 9	I.Chapter 5
III.Chapter 11	II.Chapter 3
III.Chapter 13	II.Chapter 5
III.Chapter 15	II.Chapter 7
III.Chapter 17	II.Chapter 9
III.Chapter 19	II.Chapter 11
III.Chapter 21	II.Chapter 13
III.Chapter 23	II.Chapter 15
III.Chapter 25	II.Chapter 17
III.Chapter 27	I.Chapter 7

0205#033

RULE

**Department of Treasury
Teachers' Retirement System**

Deferred Retirement Option Plan (DROP) Accounts
(LAC 58:III.509 - 513 and 519)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, the Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the withdrawal of funds from Deferred Retirement Option Plan (DROP) accounts.

Title 58

RETIREMENT

**Part III. Teachers' Retirement System of Louisiana
Chapter 5. Deferred Retirement Option Plan (DROP)**

§509. Withdrawal of Funds from a Drop Account

A.1. - 5. ...

6.a. one-time partial account balance withdrawal at the beginning of, or during the term of, monthly or annual withdrawals selected in accordance with §509.A.2, 3, 4, or 5. If the one-time partial account balance withdrawal is made before any other withdrawals, the balance of the account will

be paid as determined by the withdrawal method selected in accordance with §509.A.2, 3, 4, or 5. If withdrawals have already begun, the duration of the remaining monthly and or annual withdrawals will be redetermined and the appropriate federal tax laws will be applied. If the one-time partial account balance withdrawal is to be made after the monthly or annual withdrawals have begun, the retiree must meet one of the following conditions:

- i. one must have been at least age 55 on the date of his retirement; or
- ii. one must be at least 59 1/2 at the time he chooses the one-time single lump sum withdrawal;
- b. in all cases the monthly or annual withdrawals may not be decreased once they have begun, although they may be increased in accordance with §511.A;

7. total DROP account balance withdrawal at any time after monthly or annual withdrawals have begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR 28:1031 (May 2002).

§511. Change of DROP Withdrawal Method

A. The participant will have one opportunity per 12-month period to change the chosen withdrawal method if the original method selected was either §509.A.2, 3, 4, 5, or 6. Any change in the withdrawal method must be made in accordance with the life expectancy of the participant, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR 24:961 May 1998), LR 28:1032 (May 2002).

§513. Termination of DROP Participation

A. ...

B. In the event of the death of the DROP participant/retiree, a spousal beneficiary shall select a withdrawal method from the options listed in §509.A, and may make changes in accordance with §511. If the disbursements from the account began prior to the participant's death, the spousal beneficiary may make changes in accordance with §511.

C. In the event of the death of the participant during DROP participation, or after the end of the period of participation, but before total distribution of the DROP account balance, a beneficiary(ies) other than the participant's surviving spouse shall immediately receive a lump sum equal to the participant's balance in the DROP account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419

(December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR 28:1032 (May 2002).

§519. Application for DROP

A. A member shall not begin his DROP participation until TRSL has received a fully completed, signed, and witnessed Application for DROP, Form 11F. TRSL must receive both sides of the Form 11F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR 24:962 (May 1998), LR 28:1032 (May 2002).

Brian N. Minturn
Director/CEO

0205#058

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Harvest of Mullet (LAC 76:VII.343)

The Wildlife and Fisheries Commission has amended the rules for the transfer of a mullet permit in accordance with R.S. 56:333(H).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§343. Rules for Harvest of Mullet

A. - E.3. ...

4. Notwithstanding LAC 76:VII.343.E.2, the department, upon application from an individual who is currently permitted to commercially take mullet, may transfer a valid mullet permit under the following requirements and conditions.

a. The transferee must possess and provide the department his/her social security number.

b. The transferee must possess a valid commercial fishing license and shall provide proof that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in the calendar year immediately prior to the year of application. Proof shall be for the tax year immediately prior to the application for transfer, and shall be in the form of an IRS transcript stamped by the local office, plus a copy of the applicant's personal file copy of his or her completed tax return for that year including all schedules and Form W-2s.

c. The transferee shall not currently possess a mullet permit nor have been permanently barred from the mullet fishery.

d. The transferor and the transferee each must certify that there shall be no financial gain realized for the transfer of such license or permit in accordance with department guidelines.

RULE

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

Hunting Preserve Regulations (LAC 76:V.305)

The Wildlife and Fisheries Commission has amended the rules governing hunting preserves.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§305. Hunting Preserve Regulations

A. As provided by R.S. 56:651, the department may issue a license to operate hunting preserves. Hunting preserves are to be operated under the following regulations.

1. Application Requirements

a. Application shall be made in writing on forms provided by the department.

b. Applicant must provide proof of ownership or verification of exclusive hunting rights from the landowner of the property the hunting preserve is to be operated. This is to be returned with the application.

c. All applicants, including applicants for renewal as required by the department, must provide a written operational plan detailing the type(s) of birds to be released, the method(s) and time of release, and location(s) of release. A description of hunting activities that occur, or are likely to occur on the preserve and surrounding property must also be included. In the case of hunting preserves approved to utilize mallards, a map must be included in the operational plan which indicates the release site, water areas, and shooting areas. A license will not be issued until the operational plan has been approved by the department. Deviation from the approved operational plan is permitted only with written consent of the department.

d. The department may revoke/deny any hunting preserve license for failure to comply with any fish or wildlife laws, for reasons relating to disease or public health, for deviation from an approved operational plan, or for failure to abide by the rules and regulations established for this hunting preserve program. Revocation/denial shall be for a minimum of one entire hunting preserve season.

e. New applications must be received prior to August 1 for operation during the forthcoming hunting preserve season.

2. Suitability of Area for Use as a Hunting Preserve

a. No license for a hunting preserve shall be issued until an on-site investigation has been completed by the department and the department has determined that the property is suitable for the purpose of the proposed hunting preserve. The department shall base its determination on whether or not the proposed shooting area will cause conflicts with wild migratory game bird hunting, or be in violation of state and federal regulations concerning the feeding of migratory waterfowl or the use of live decoys, that the establishment of the shooting area will be in the public interest, and that the operation of a hunting preserve at the location specified in the application will not have a detrimental effect upon wild migratory or resident game birds.

e. Any mullet permit found to have been transferred for financial gain shall be rendered void, shall immediately be surrendered to the department, and shall not be reissued.

5. In the case of a proven physical hardship, the department, upon written request from an individual who is currently permitted to commercially take mullet, may transfer a valid mullet permit into the name of the spouse, parent/legal guardian, or child/legal dependent of such person under the following requirements and conditions.

a. A mullet permit holder shall make a written request that includes the name, address and social security number of both the permit holder and the person to whom the license is requested to be transferred and shall set forth in detail the reasons justifying the request.

b. The mullet permit holder must present documentation sufficient to prove relationship as being the spouse, parent/legal guardian, or child/legal dependent, between the permit holder and the person to whom the permit is to be transferred. Examples of documents tending to establish such proof would include marriage license, birth certificate and/or judgment of legal guardianship.

c. The mullet permit holder must provide a signed statement from the treating physician setting forth the specific nature and extent of the disability together with a statement that the condition prevents participation in commercial fishing activities.

F. A valid mullet permit may only be transferred from a mullet permit holder who has no pending mullet charges for violating any provisions of R.S. 56:333 or any commission rule or regulation adopted pursuant to R.S. 56:333 after August 15, 2001. The provisions of R.S. 56:333.F shall apply to permit transfer recipients. Permits under suspension or revocation shall not be transferable during any suspension or revocation period.

G. Any person who transfers a mullet permit shall be precluded thereafter from obtaining a mullet permit whether by transfer or other method.

H. General Provisions. Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of mullet legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

I. In addition, all provisions of R.S. 56:333(C) are hereby adopted and incorporated into this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1, R.S. 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992) amended LR 21:37 (January 1995), LR 22:236 (March 1996), LR 24:359 (February 1998), LR 26:2332 (October 2000), LR 28:1032 (May 2002).

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b. No license shall be issued for any hunting preserve situated on a marsh, lake, river or any other place where there are concentrations of wild waterfowl or if its operations are likely to result in attracting such concentrations of wild waterfowl.

c. No hunting preserve using mallards shall be located within five miles of any wildlife area with significant waterfowl concentrations owned or leased by the state or federal government or by non-profit conservation organizations.

d. Licenses for hunting preserves using mallards will not be issued in the coastal zone, defined as that area south of I-10 from the Texas state line to Baton Rouge, south of I-12 from Baton Rouge to Slidell and south of I-10 from Slidell to the Mississippi state line.

e. No license shall be issued for the use of pheasants on any hunting preserve situated within areas with medium to high turkey populations. In areas with low turkey populations and low potential for expansion, pheasants may be used. This determination will be made at the local level by a department biologist in consultation with the turkey study leader. Agricultural areas contiguous to occupied turkey habitat may use pheasants if the preserve boundaries are at least one-half mile from the nearest woodland.

f. The licensee is responsible for notifying the department of changes in activities or conditions that may affect the suitability of the property for a hunting preserve. If at any time, the department determines that activities or conditions on the hunting preserve or surrounding property, make the property unsuitable for a hunting preserve, or that continued operation of the hunting preserve is not consistent with these regulations, the department may immediately revoke the hunting preserve license, or require modification of the operational plan.

g. Applicants and licensees are advised that hunting preserve licenses are issued following a review and recommendations by department staff. Licenses are issued on an annual basis for a 12-month term only. Changing conditions, including those such as climatic, biological, and land use, which may be beyond the control of the applicant/licensee, may result in certain applications not being granted, or licenses not being renewed. Annual renewal of hunting preserve licenses cannot be assured and applicants/licensees are cautioned to take these factors into consideration when making any investments or commitments which may relate to the continued issuance of a hunting preserve license.

3. Types of Releases Allowed

a. The use of mallards on hunting preserves is limited to those operations whereby domestic mallards are released in a controlled fashion to proceed over positioned shooters in their flight path. No direct releases of any species of domesticated waterfowl into the wild for any sporting purposes or for any reasons are permitted within the state.

b. Quail may be released after September 1 on hunting preserves for the purpose of providing coveys for hunting. Pheasants and chukars may not be released on hunting preserves more than one day prior to a scheduled hunt. No direct releases of domesticated game birds,

including but not limited to quail, pheasants and chukars, into the wild for purpose of population establishment are permitted within the state.

c. All quail and mallards must be banded in accordance with R.S. 56:654(4) prior to release.

4. Inspection of Permitted Areas and Domesticated Game Birds

a. Applicant must provide proof that the birds to be released originated from a source flock participating in the National Poultry Improvement Plan (NPIP) within 365 days prior to release and have not been in contact with birds from non-NPIP sources.

b. The premises of game bird production facilities and/or holding pens may be inspected by the department or by a designated agent for assessment of health of birds and sanitation of facilities. General pen requirements must conform to those adopted by the Louisiana Wildlife and Fisheries Commission for game breeders.

c. Accurate records of animal husbandry and mortality must be maintained at production/holding facilities and will be subject to periodic inspection by the department.

d. Every person who brings or causes to be brought into this state live domestically reared game birds for shooting purposes must comply with Livestock Sanitary Board regulations on livestock, poultry, and wild animals (R.S. 7:11705, 11767 and 11789). A copy of the health certificate must also be forwarded to the Department of Wildlife and Fisheries within 10 days for each shipment of birds. Any shipment of birds not accompanied by a health certificate shall be destroyed or returned to the place of origin by the importer at his sole cost and responsibility.

5. Hunting Licenses Requirements. A basic hunting license or hunting preserve license is required of all persons hunting on hunting preserves. In addition, a Louisiana Waterfowl Hunting License (formerly known as a state duck stamp) is required as provided by law of all persons taking or hunting mallards on any hunting preserves.

6. Season Dates. The season during which shooting will be permitted shall be set by the Louisiana Wildlife and Fisheries Commission. The current season is fixed for the period of October 1 through April 30.

7. Shooting Hours. Shooting hours for hunting preserves shall be set by the Louisiana Wildlife and Fisheries Commission. The current hours are one-half hour before sunrise to sunset.

8. Methods of Take

a. Shotguns 10 gauge or smaller capable of holding no more than three shells in the magazine and chamber combined; nontoxic shot is required for hunting mallards on hunting preserves approved for use of mallards;

b. muzzle-loading shotguns;

c. falconry;

d. archery equipment

B. Existing state laws R.S. 56:651-659 and federal law 50 CFR 21:13 address bird banding, bird identification, bird transportation, reports and records and other issues. Compliance with these state and federal laws are mandatory. Hunting and taking of wild migratory and wild resident game birds on licensed hunting preserves must conform to

all state and federal hunting regulations, including, but not limited to: non-toxic shot requirements, federal duck stamp requirements, live decoy prohibition, seasons, and bag limits.

C. Changes in Rules. The Louisiana Wildlife and Fisheries Commission, Louisiana Department of Agriculture and the U.S. Fish and Wildlife Service may from time to time make changes in these rules and it is the responsibility of the licensee to apprise himself of any changes and to abide by them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:651-659.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1136 (October 1992), amended LR 28:1033 (May 2002).

James H. Jenkins, Jr.
Secretary

0205#044

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part LIX. Bulletin 103C Louisiana Health Education Content Standards (LAC 28:LIX.Chapters 1-11)

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 the adoption of Bulletin 103, *Louisiana Health Education Content Standards*. Bulletin 103 will be printed in codified format as Part LIX of the Louisiana Administrative Code. The *Louisiana Health Education Content Standards* will be disseminated to local school districts following publication. The standards and benchmarks therein will be used to guide curriculum development for all health education courses. Implementation of the guidelines set forth in the *Louisiana Health Education Content Standards* will improve educational practices and coherence in the local health education programs. The *Louisiana Health Education Content Standards* will align the curriculum with desired changes to promote a more relevant health education curriculum for all students.

Title 28 EDUCATION

Part LIX. Louisiana Health Education Content Standards

Chapter 1. General Provisions

§101. Introduction

A. In this era of educational reform, health education standards are critical to improving quality of life through student learning. They provide direction for moving toward excellence in teaching health information. Quality health education provides guidance for maintaining a healthy lifestyle for all individuals, including females and those with disabilities. Through competency of key concepts and skills outlined in this document, students will become health-literate, effective problem-solvers, self-directed learners, effective communicators, and responsible, productive citizens.

B. Health Literacy is the capacity of an individual to obtain, interpret, and comprehend basic health information and services and the competence to use such information and services in ways that are health enhancing for the individual, family, and community. Four characteristics are identified as being essential to health literacy. The health-literate person is:

1. a critical thinker and problem solver;
2. a responsible, productive person;
3. a self-directed learner; and
4. an effective communicator.

C. A fundamental mission of schools is the promotion of healthy behaviors by providing individuals with knowledge, abilities, and skills to become healthy and productive citizens. Optimal health leads to effective living, learning

and enjoyment of life for all individuals. It is also an asset for students facing intense competition, peer pressure, stress, and a full program of intellectual and physical activities. The primary purpose of health education is the translation and integration of health concepts into personal behavior.

D. The Louisiana Health Education Content Standards offer a coherent vision of what it means to be health-literate. These standards identify the knowledge and skills essential to the development of health literacy. In addition, the standards provide a guide for enhancing and continuing education of teachers and as a blueprint for local curriculum developers. The standards are broad enough to allow flexibility according to strengths or challenges identified in each community and to make them culturally relevant.

E. Louisiana Health Education Content Standards establish a framework for interdisciplinary connections across learning areas and the inclusion of school health curriculum. This type of framework will facilitate a new and more informed consensus among Louisiana educators and the public to further refine the answers to the question: "What should all Louisiana students know and be able to do at the end of health education instruction?"

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§103. Goal

A. The goal of the standards project is to:

1. develop a framework of essential knowledge and skills for Louisiana students that reflects contemporary knowledge about teaching and learning;
2. prepare students to apply their knowledge in a variety of situations; and
3. prepare students for life-long learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§105. Definitions

*Adolescent Risk Behaviors*Cbehaviors identified by the U.S. Centers for Disease Control and Prevention (CDC) as being the most influential in the health of our nation's youth. These behaviors include avoidance of:

1. tobacco use;
2. dietary patterns that contribute to disease, sedentary lifestyle, sexual behaviors that result in HIV infection/other STDs and unintended pregnancy, alcohol and other drug use; and
3. behaviors that result in unintentional and intentional injuries.

*Critical Thinker and Problem Solver*Chealth-literate individuals are critical thinkers and problem solvers who identify and creatively address health problems and issues at multiple levels, ranging from personal to international. They use a variety of sources to access the current, credible, and applicable information required to make sound health-

related decisions. Furthermore, they understand and apply principles of creative thinking along with models of decision-making goal setting in a health-promotion context.

Effective Communicators—health-literate individuals who organize and convey beliefs, ideas and information about health through oral, written, artistic, graphic, and technologic mediums are effective communicators. They create a climate of understanding and concern for others by listening carefully and responding thoughtfully and presenting a supportive demeanor which encourages others to express themselves. They conscientiously advocate for positions, policies, and programs that are in the best interest of society and intended to enhance personal, family, and community health.

Health Education Standards—standards specify what students should know and be able to do. They involve the knowledge and skills essential to the development of health literacy. That "knowledge" includes the most important and enduring ideas, issues and concepts in health education. Those "skills" include the ways of communicating, reasoning, and investigating which characterize health education. Health Education standards are not merely facts, rather, they identify the knowledge and skills students should master to attain a high level of competency in health education.

Health Literacy—the capacity of an individual to obtain, interpret, and understand basic health information and services and the competence to use such information and services in ways which are health enhancing.

Institution for Higher Education—a college or university that awards undergraduate degrees and that may include programs of professional preparation for teachers.

Local Education Agency—the organization that has the responsibility for overseeing the public education of students within a community.

Performance Indicator—specific concepts and skills which fourth-, eighth-, and eleventh-grade students should know and be able to do to achieve the National Health Education Standards. They are intended to help educators focus on the essential knowledge and skills basic to the development of health-literate students. They serve the same purpose as the benchmarks in other standards documents. The performance indicators form a blueprint for organizing student assessment.

Responsible, Productive Citizens—individuals who realize their obligation to ensure that their community is kept healthy, safe, and secure so that all citizens can experience a high quality of life. They also realize that this obligation begins with oneself. That is, they are responsible individuals who avoid behaviors which pose a health or safety threat to themselves and/or others, or an undue burden on society. Finally, they apply democratic and organizational principles in working collaboratively with others to maintain and improve individual, family, and community health.

School Health Education—one component of the comprehensive school health program. This component includes the development, delivery, and evaluation of a planned instructional program and other activities for students pre-school through grade 12, for parents, and for school staff. It is designed to positively influence the health knowledge, attitudes, and skills of individuals.

School Health Educator—a practitioner who is professionally prepared in the field of school health education, meets state teaching requirements, and demonstrates competence in the development, delivery, and evaluation of curricula for students and adults in the school setting that enhance health knowledge, attitudes, and problem-solving skills.

Self-Directed Learner—health-literate individuals are self-directed learners who have a command of the dynamic, changing health promotion and disease prevention knowledge base. They use literacy, numeracy, and critical thinking skills to gather, analyze, and apply health information as their needs and priorities change throughout life. They also apply interpersonal and social skills in relationships to learn from and about others and, as a consequence, grow and mature toward high-level wellness.

State Education Agency—the department of state government that has the responsibility for overseeing the public education of students within the state.

State Health Agency—the department of state government that has the responsibility for recording and overseeing the health of citizens within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§107. Content Standards Foundation Skills

A. The Louisiana Content Standards Task Force has developed the following foundation skills that should apply to all disciplines.

1. Communication. A process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

- a. reading;
- b. writing;
- c. speaking;
- d. listening;
- e. viewing; and
- f. visually representing.

2. Problem Solving. The identification of an obstacle or challenge and the application of knowledge and thinking process which include reasoning, decision-making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. Resource Access and Utilization. The process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential in all learning processes. These resource tools include:

- a. pen;
- b. pencil;
- c. paper;
- d. audio/video material;
- e. word processors;
- f. computers;

- g. interactive devices;
- h. telecommunication; and
- i. other emerging technologies.

4. **Linking and Generating Knowledge.** The effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continued improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. **Citizenship.** The application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

- a. working respectfully and productively together for the benefit of the individual and the community;
- b. being accountable for one's civil, constitutional, and statutory rights; and
- c. mentoring others to be productive citizens and lifelong learners.

NOTE: These foundation skills are listed numerically in parentheses at the end of each benchmark.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§109. Need and Context for Reform

A. Education reform is driven by concerns of government and business leaders for the future of the country in a technological world economy. Parents and community members concur that calling for reform will enable students to become responsible members of their families and communities. It is agreed that essential preparation for success in work and family and community settings includes acquisition the foundation skills. Future workers and members of society need the ability to apply knowledge from multiple sources and to work cooperatively.

B. Health: A Key Component

1. Educational excellence in traditional content areas may not be sufficient to secure the future competitiveness of the country. Alcohol, tobacco, and other drug use as well as low levels of physical activity, poor nutrition, injuries, teenage pregnancy, sexually transmitted diseases, and stress contribute to a lower health status and result in loss of work and school time.

2. Health education in schools is essential to enable students to acquire the knowledge and skills needed to practice good health. Implementation of planned, sequential health curricula has been linked to changes in students' attitudes and behaviors. Poor health habits often carry over into adulthood. Students who follow good health habits are more alert, perform at a higher level, are absent less, and have greater self-esteem. These traits carry over into adulthood. Healthy adults will be prepared to contribute to the nation's economic competitiveness by working more effectively and decreasing employee absenteeism. Due to an increase in disease prevention, fewer medical services will be required, thereby reducing health insurance costs.

3. Decreased business costs will increase productivity as a result of a workforce of healthy individuals. In addition, health knowledge and skills, when applied, ensure a better quality of life.

C. The Recognized Need

1. The major health problems facing the United States today are largely preventable, and attributable to a few types of behaviors. Such behaviors include those that lead to injury through violence or accidents, drug and alcohol abuse, poor nutrition, suicide, pregnancy and insufficient physical activity (*Surgeon General's Report*, 1996). Additionally, recent studies suggest that adolescent depression may approach 8 percent of the population, and approximately 15-20 percent of adolescents will express depression during their teen years (Schlozman, 2001). It is important that we address these behaviors early in a child's education through school programs.

2. More children are developing habits that lead to unhealthy lifestyles. Findings from the *Surgeon General's Report* and the Centers for Disease Control and Prevention (CDC) indicate that as students age, they participate in fewer forms of physical activity. This finding, coupled with additional risk factors (e.g., tobacco and drug use, poor nutrition and poor eating habits, increase in sedentary activities) leads to an increasing incidence of cardiovascular disease, cancer, stroke, obesity, and Type II diabetes. For cardiovascular disease, cancer, and diabetes, Louisiana has higher rates than the national average (BRFSS, 1996).

3. The cost of cardiovascular diseases and stroke in the United States in 2001 was estimated at \$329.2 billion (AHA, 2002). This figure includes both direct cost health expenditures (the cost of physicians and other professionals, hospitals and nursing home services, medications, home health, and other medical durables) and indirect cost health expenditures (loss of productivity resulting from morbidity and mortality). Cardiovascular diseases claim the lives of more than 15,000 Louisiana residents each year making it the state's number one killer. Many of these lives could be saved if bystanders promptly phone 911, begin cardiopulmonary resuscitation (CPR), and if trained rescuers provide defibrillation within minutes.

4. Louisiana has alarming rates of obesity. In a recent report from the CDC, Louisiana was ranked twentieth out of 25 states for its level of obesity. In a similar report, New Orleans was found to be the most obese city in America. In 1996, 33 percent of adults in Louisiana reported being overweight according to the Behavioral Risk Factor Surveillance System (BRFSS). There is evidence to conclude that obesity-related diseases account for approximately 80 percent of the national health care budget, or about \$100 billion. Health-risk behaviors claim a high proportion of Louisiana's Medicaid dollars (48 percent).

5. In addition, suicide has become a significant cause of death in the United States. Based on facts published by CDC and from the Louisiana Adolescent Suicide Prevention Task Force:

- a. for people from 15-25 years old, suicide is the third leading cause of death;
- b. more teenagers and young adults die from suicide than from cancer, AIDS, heart disease, birth defects, strokes, pneumonia, influenza, and chronic lung disease combined; and

c. in 1996, medical treatment for youth suicide in Louisiana for ages 0 to 20 years was \$364,000,000.

6. Suicide prevention, along with other health education issues can be easily integrated into the health education curriculum that is based on health education content standards. Today, the goals of health education focus more on the development of the whole person. Greater emphasis is placed on health and wellness of the human being. Promoting personal well-being includes attention to mental health as well as physical health.

D. Looking Forward

1. Traditionally, the health education curriculum has been organized around health content topic areas. Today, greater emphasis is placed on health and wellness. The Health Education Content Standards are an ideal means for providing guidelines for curriculum addressing high-risk behaviors and healthy lifestyles.

2. The U.S. Centers for Disease Control and Prevention (CDC) has identified six risk behaviors that are incorporated in the organization of the new health content standards. The six risk behaviors include:

- a. tobacco use;
- b. sedentary lifestyle/poor physical activity patterns;
- c. alcohol and drug abuse;
- d. unhealthy dietary behaviors;
- e. behaviors that result in accidents and injuries;
- f. sexual behaviors that result in sexually transmitted diseases and unintended pregnancy.

3. In collaboration with health and education partners (Association for the Advancement of Health Education of the American Alliance for Health, Physical Education, Recreation, and Dance, American School Health Association, American Public Health Association, and American Cancer Society), the CDC assists in providing states with information and skills needed to avoid such risk behaviors. The eight components of a coordinated school health program systemically address these risk behaviors and the development of healthy lifestyles. They include:

- a. health education;
- b. physical education;
- c. health services;
- d. nutrition services;
- e. counseling, psychological, and social services;
- f. healthy school environment;
- g. health promotion for staff;
- h. family and community involvement.

4. Coordinated school health programs offer the opportunity for us to provide the services and knowledge necessary to enable children to be productive learners and to develop skills for making health decisions for the rest of their lives.

E. Purpose

1. This framework document organizes and integrates the content and process of health education. It serves as a bridge between classroom practice and national standards established by the health education community. The standards define what a health-educated person should know, understand, and be able to do. Although the standards provide a framework for curriculum development, local education agencies may choose topics to meet the needs of children and youth in their communities.

2. The Louisiana Health Education Content Standards framework is designed to guide the process of reforming health education in this state. It provides the following:

- a. a framework for developing a comprehensive K-12 health education curriculum;
- b. a catalyst for insightful discussion of the fundamental nature of health education;
- c. a guide for evaluating progress and achieving health education benchmarks among the students of Louisiana;
- d. a vision of health education for the state; and
- e. a tool to enable local districts, schools, and educators to grasp the nature, purpose, and role of health education.

F. Intended Audiences. This document is intended for use mainly by kindergarten through grade 12 teachers of health education and curriculum developers to plan curriculum, instruction, and assessment.

G Intended Use. Intended uses for this framework include the following:

1. for teachers and curriculum developers a guide for planning curriculum, instruction and assessment;
2. for parents a means for gaining information regarding the effectiveness of their children's health education program;
3. for administrators and school board members a vision for health education and a basis for planning resource allocations, material purchases, local curriculum development and teachers' professional development;
4. for policymakers and state education staffs a basis for developing laws, policies and funding priorities to support local reforms;
5. for staff developers a basis for creating professional development materials and strategies designed to increase teachers' knowledge of health education content, teaching methodologies and assessment strategies;
6. for assessment specialists and test developers a guide for the development of an assessment framework to assess students' health education understanding and ability more effectively;
7. for colleges and university faculties a guide for content and design of teacher preparation programs; and
8. for business and industry leaders and government agencies a basis for developing effective partnerships and local reforms for funding instructional materials and professional development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

Chapter 3. Teaching and Learning of Health Education

§301. Centers for Disease Control and Prevention Recommendation

A. The Centers for Disease Control and Prevention (CDC) recommends teaching health education as a self-contained class with infused classes serving as an adjunct to, instead of substituting for, health education classes. Infused classes are defined as courses that include some health education content, but primarily focus on another subject. Centers for Disease Control and Prevention (CDC) recommends teaching health as an academic class where the

lessons are taught sequentially, behaviorally focused, and promote positive messages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§303. Curriculum Integration

A. Adoption of standards across curricular areas increases the potential to make connections which come naturally among subjects from early childhood through high school. Curriculum integration can help students make connections between health content and generic skills (e.g., critical thinking, decision-making, etc.). In addition to teaching health education in a self-contained environment, integration of other subjects will support, rather than replace, student learning of health education concepts. However, for integration to be effective, staff development must occur. Teachers need time to meet collaboratively, to identify connections across subject areas, and to plan curricular integration within and across grade levels.

B. In teaching health education, other subject areas can be easily integrated. Health education curricula can be easily integrated with reading comprehension, language arts, science, mathematics, social studies, and physical education. For example, at the elementary level, the health education curriculum is specifically intended to teach the interpersonal and conflict management skills students need to "get along." These skills are grounded in listening and speaking effectively. Health education also affords students many opportunities to write about topics of interest to them such as their personal feelings, growth, and development. In addition, students can apply the mathematical and science processes of measuring, charting, graphing, estimating, predicting, justifying, and classifying in conjunction with health lessons. At the middle and high school levels:

1. language skills are utilized in accessing and evaluating health information;
2. citizenship and communication skills are involved in community advocacy;
3. knowledge of body system functions includes anatomy; and
4. environmental science concepts are reinforced by the understanding of ecological systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§305. Technology

A. Technology can enhance learning by improving both the efficiency and effectiveness of instructional time. The National Health Education Standards and Louisiana Health Education Content Standards expect students to demonstrate the ability to access health information. School districts are expected to provide for the utilization of information technologies in the delivery of health instruction.

B. Students will be required to make numerous health care decisions in their lifetimes and must do this in an environment in which they are bombarded with health information that may or may not be accurate. Comprehensive health education prepares students to use and evaluate information for accuracy from a variety of

sources. This requires that students use technology to gather current, accurate information prior to making decisions and taking action. The use of technology to access information is an essential lifelong health literacy skill.

C. The careful, guided use of technology to enhance the effectiveness of health education can allow all students to access the most current information. Due to the abundance of information available, educators, administrators, and parents are encouraged to evaluate the quality of available information prior to presenting it to students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§307. Assessment

A. Standards involve statements about what students should know and be able to do. Included in this process is the construct of assessment. Health education assessment reflects the process of accumulating evidence about students' levels of competence in the area of health. Inferences can then be made based upon the evidence ascertained. The primary goal of assessment facilitates learning, rather than the documentation of learning. It is critical for health educators to assess individual performance. Such assessment should:

1. reflect health education content that is most important for students to learn, based upon the Louisiana Health Education Content Standards and Benchmarks;
2. enhance learning through a connection with instruction;
3. provide valid and reliable evidence of student performance; and
4. produce valid inferences about student learning specific to health education.

B. At a time in which greater demands are likely to be placed on assessment than any other time in United States education history, there continues to be escalating discomfort with traditional forms of assessment, including multiple-choice, true-false, matching machine-scored tests. With this in mind, assessment practices must support instruction of health education and student learning.

C. Alternative assessment can take many forms, such as portfolios, discussions and debates, event tasks, case studies, student logs, and role-playing. Such assessments can include:

1. tasks that directly examine the behavior the teacher wishes to measure;
2. criterion-referenced scoring;
3. assessment of higher levels of learning;
4. student participation in development of the assessment and ownership of the final product; and
5. assessment criteria that are given to students in advance.

D. *Rubrics* are the scoring criteria by which student performance is judged. They are used most often with alternative assessments such as portfolios, event tasks, and student performance but can actually be used for other types of assessment as well. They should be written by the health educator before instruction begins and shared with students as the unit or project is explained. Because students have the criteria early, they have a standard by which they can judge

their own performance, thereby providing feedback during instruction.

E. The Louisiana State Health Education Standards focus on both alternative assessment options and traditional ones in order to forge a more complete picture of student learning. An assessment strategy that is balanced will best assess the objectives of the K–12 health education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§309. Requirements

A. The Louisiana Department of Education in *Bulletin 741, Louisiana Handbook for School Administrators*, sets the hours required in health and physical education. These requirements are also found in Bulletins 1596 and 1597.

B. For grades 1-6, 150 minutes per week are required in health and physical education. (B 741:2.090.09)

C. In grades seven and eight, "health and physical education, elective, exploratory studies" is set at a minimum of 275 minutes per week for students on a six-period day option or 250 minutes per week for a seven-period day schedule. (B 741:2.090.09)

D. Grades 9 –12. In order to graduate from high school, public school students must earn one-half unit in health education. (B 741:2.105.09) A minimum of 90 hours of health instruction shall be taught and cardiopulmonary resuscitation (CPR) must be taught during health education. (B 741:2.105.15) Nonpublic schools require two units of combined health and physical education for graduation. (B 741: 6.099.01)

E. R.S. 17:275 states that all public junior and senior high schools shall provide instruction to all female students in the proper procedure for breast self-examination and the need for an annual Pap test for cervical cancer. Such instruction may be provided in the context of courses in the study of health, physical education, or such other appropriate curriculum or instruction period as may be determined by the respective local school boards. This instruction may be taught by a school nurse, physician, or competent medical instructor. The local school boards shall adopt rules and regulations necessary for the implementation of this program of instruction. No student shall be required to take such instruction if his parent or tutor submits a written statement indicating that such instruction conflicts with the religious beliefs of the student.

F. In 2001, through Senate Bill No. 792, guidelines were established for the development of youth suicide prevention programs as required in R.S. 17:282.3. Some features of this bill include the involvement of the Department of Education in developing standards for these programs, classroom instruction integrated into the curriculum and access to prevention services. Some of the instructional topics suggested for prevention in S.B. No. 792 are:

1. encourage sound decision-making and promote ethical development;
2. increase student awareness of the relationship between drug and alcohol use and suicide;
3. teach students to recognize signs of suicidal tendencies; and
4. inform students of the available community suicide prevention services.

G. The measures outlined in Subsection F.1.-4 above easily fit within the health education curriculum that is based on these Health Education Content Standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

Chapter 5. Health Education Content Standards and Benchmarks

§501. Coding Key for Benchmarks

A. Standards are broad goals for student achievement in a content area. Each standard is followed by a set of benchmarks. The benchmarks state what a student should know and be able to do in order to reach the standard. The key in Paragraphs 1-3 of this Subsection A explain the coding used for the benchmarks contained in this document.

1. The first number indicates the standards number.
2. The capitol letter represents the cluster level.
3. The third symbol is a second number, which represent the benchmark number.
 - a. The letters for each grade cluster level are as follows:

E	represents the elementary cluster level, grades K - 4
M	represents the middle school cluster level, grades 5 - 8
H	represents the high school cluster level, grades 9 - 12
Example: 2-E-4 would represent benchmark four for standard two on the Elementary level (grades 3 - 5)	

B. The numbers in parentheses at the end of each benchmark are the numbers for the Louisiana Standards Foundation Skills found in §107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§503. Health Education Content Standards

A. The Louisiana Health Education Content Standards are composed of three components:

1. Health Education Content Standards;
2. rationale for each standard;
3. benchmarks (performance indicators) that describe what the student should know and be able to do to demonstrate mastery of the standard.

B. The National Health Education Content Standards vary from other content areas in that performance indicators are used as benchmarks. Louisiana benchmarks are intended to serve as a guide for organizing student assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§505. Standard 1

A. Students will comprehend concepts and strategies related to health promotion and disease prevention.

1. State Foundation Skills 1, 2, 3, 4;
 2. National Health Standard 1
- B. Basic to health education is a foundation of knowledge about the interrelationship between behavior and health, the human body, and disease prevention. Comprehension of health-promotion strategies and disease

prevention concepts will enable students to become health literate learners with a foundation for leading healthy and productive lives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq. **HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§507. Standard 2

A. Students will demonstrate the ability to access and evaluate the validity of health information and health promoting products and services.

1. State Foundation Skills 1, 2, 5;
2. National Health Standard 2

B. Critical thinking involves the ability to identify valid health information and to analyze, select and access health-promoting services and products. The development of critical thinking skills is a high priority in all disciplines for improving problem solving and decision-making abilities. Applying skills of information analysis, organization, comparison, synthesis and evaluation to health issues encourages students to become health literate and responsible citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§509. Standard 3

A. Students will demonstrate the ability to practice positive health behaviors and reduce health risks.

1. State Foundation Skills 2, 3;
2. National Health Standard 3

B. Reducing harmful and risk-taking behaviors can prevent many diseases and injuries. Recognizing and practicing health-enhancing behaviors can contribute to a positive quality of life. Strategies to improve health behaviors will assist students in developing positive health behaviors as they engage in critical thought and problem solving. Goal setting and decision-making are integral to developing such strategies. By accepting responsibility for personal health, students have a foundation to develop a productive, healthy life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§511. Standard 4

A. Students will analyze the impact of the media, technology, economy, culture, and other factors on health through the use of technological resources.

1. State Foundation Skills 1, 3, 5;
2. National Health Standard 4

B. Health is influenced by a variety of factors that co-exist within a society such as cultural context, media, and technology available. A competent problem solver can analyze, evaluate and interpret the influence of such factors on the health of the individual and community. Through analyzing influences, evaluating media messages, and recognizing the impact of technology students will develop into more effective and responsible individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§513. Standard 5

A. Students will demonstrate individual and interpersonal communication skills necessary to enhance health.

1. State Foundation Skills 1, 2, 3, 4;
2. National Health Standard 5 and 6

B. Personal, family, and community health are enhanced through effective communication. Responsible individuals use communication skills in maintaining healthy relationships. The ability to organize and convey information, beliefs, opinions, and feelings are skills that strengthen interactions while reducing conflicts. These skills enable individuals to collaborate with others to improve the quality of life for their families and communities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§515. Standard 6

A. Students will demonstrate the ability to advocate personal, family, and community health.

1. State Foundation Skill 3 and 4;
2. National Health Standard 7

B. Quality of life is dependent on an environment that protects and promotes the health of individuals, families, and communities. Advocating and communicating for improved health measures in their communities characterize responsible citizens. Individuals should develop a wide variety of advocacy skills such as persuasiveness, collaboration and effective communication techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

Chapter 7. Grades K-4C Elementary Cluster Level

§701. Standard 1

A. Students will comprehend concepts and strategies related to health promotion and disease prevention.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

1-E-1	recognize basic body parts and describe the structure and function of the human body system;	(1,2,4)
1-E-2	demonstrate personal health habits that promote optimal health; (i.e., good nutrition, brushing teeth, washing hands, exercise, etc.)	(1,2,3)
1-E-3	compare and contrast personal health behaviors and individual well being;	(1,2,4)
1-E-4	identify common childhood health problems/illnesses and the corresponding prevention and treatment;	(1,2,4)
1-E-5	explain how physical, social and emotional environments influence personal health.	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§703. Standard 2

A. Students will demonstrate the ability to access and evaluate the validity of health information and health promoting products and services.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

2-E-1	identify characteristics of valid health information and health-promoting products and services;	(2,3,4)
2-E-2	demonstrate the ability to locate resources from home, school and community that provide valid health information;	(1,2,3,4)
2-E-3	explain how media influences the selection of health information, products, and services; and	(4,5)
2-E-4	demonstrate the ability to locate school and community health resources.	(1,3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§705. Standard 3

A. Students will demonstrate the ability to practice positive health behaviors and reduce health risks.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

3-E-1	identify personal health needs;	(1,4)
3-E-2	demonstrate responsible personal health behaviors;	(2,4)
3-E-3	illustrate safety/injury prevention techniques related to daily activities;	(2,3,4)
3-E-4	demonstrate ways to avoid and reduce threatening situations; and	(2,3,4)
3-E-5	apply skills to manage stress.	(2,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§707. Standard 4

A. Students will analyze the impact of the media, technology, economy, culture, and other factors on health through the use of technological resources.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

4-E-1	describe how culture influences personal health behaviors;	(1,2,4)
4-E-2	explain how media influences thoughts, feelings, and health behaviors;	(2,3,4)
4-E-3	demonstrate ways that home health care technology can influence personal health (blood glucose level monitors, blood pressure monitors, diet evaluation software, on-line medical sites, etc.); and	(2,3,4)
4-E-4	discuss how information from school and family influences health.	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§709. Standard 5

A. Students will demonstrate individual and interpersonal communication skills necessary to enhance health.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

5-E-1	demonstrate healthy ways to communicate needs, wants, and feelings through verbal and non-verbal communication;	(1,2)
5-E-2	demonstrate ways to communicate care, consideration, and respect of self and others;	(1,2,5)
5-E-3	apply a decision-making process to address personal health issues and problems;	(1,2)
5-E-4	demonstrate refusal skills to enhance health;	(1,2)
5-E-5	demonstrate non-violent strategies to resolve conflicts; and	(1,2,4)
5-E-6	establish personal health goals and track progress toward its achievement.	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§711. Standard 6

A. Students will demonstrate the ability to advocate personal, family and community health.

B. Benchmarks K-4. By the end of the K-4 level, students should know and be able to:

6-E-1	recognize basic job functions of community and school health service providers	(1,4)
6-E-2	convey how to access appropriate health and crisis care services in emergency situations; and	(1,2,4)
6-E-3	demonstrate the ability to communicate information that promotes positive health choices.	(1,3,4,5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

Chapter 9. Grades 5-8C Middle School Cluster Level

§901. Standard 1

A. Students will comprehend concepts and strategies related to health promotion and disease prevention.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

1-M-1	describe relationships among physical, mental, emotional and social health;	(1,2,4)
1-M-2	evaluate healthy and unhealthy lifestyles (e.g., preventive health measures, physical fitness, nutrition, obesity, eating disorders, stress, etc.);	(1,2,3,4)
1-M-3	examine the structure and function of body systems and its relation to wellness;	(2,3,4)
1-M-4	analyze high risk behaviors to determine their impact on wellness (e.g., disease transmission, suicidal tendencies, substance use and abuse, etc.); and	(1,2,3,4)
1-M-5	determine factors that influence violence and strategies for avoiding unhealthy situations.	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§903. Standard 2

A. Students will demonstrate the ability to access and evaluate the validity of health information and health-promoting products and services.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

2-M-1	locate valid health information using various sources (e.g., Internet, videos, print, television, etc.);	(2,3,4)
2-M-2	identify how media influences the selection of health information and products;	(1,3,4)
2-M-3	locate and evaluate functions of community health agencies and professional health services (e.g., hospitals, emergency care, substance abuse centers, volunteer organizations, etc.); and	(2,3,4)
2-M-4	examine the effectiveness of health products and services (e.g., sun blocks, cosmetics, over-the-counter medicines, etc.).	(2,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§905. Standard 3

A. Students will demonstrate the ability to practice positive health behaviors and reduce health risks.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

3-M-1	identify personal health needs and develop long-term goals for a healthy lifestyle;	(2,4)
3-M-2	examine physical fitness assessments and their role in developing a personal wellness program; and	(2,3,4)
3-M-3	develop injury prevention and management strategies for personal and family health.	(1,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§907. Standard 4

A. Students will analyze the impact of the media, technology, economy, culture, and other factors on health through the use of technological resources.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

4-M-1	investigate the quality of health care provided in other countries;	(4,5)
4-M-2	compare and contrast the health of different cultures, race and ethnicity;	(1,2,4,5)

4-M-3	investigate the impact of media (e.g., television, newspaper, billboards, magazines, Internet) on positive and negative health behaviors;	(1,3,5)
4-M-4	describe the ways that technology affects health (e.g., video games, computers, high-technological medical equipment, etc.); and	(1,3,4)
4-M-5	assess ways in which various media influence buying decisions (e.g., health products, medicines, food).	(1,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§909. Standard 5

A. Students will demonstrate individual and interpersonal communication skills necessary to enhance health.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

5-M-1	demonstrate verbal and non-verbal skills to communicate care, self-control, and respect for all;	(1,2)
5-M-2	distinguish between positive and negative peer pressure and analyze the impact of peer pressure on decision-making;	(1,2,5)
5-M-3	demonstrate refusal and conflict resolution skills to develop and maintain healthy relationships with peers, family and others in socially acceptable ways;	(1,2,3,5)
5-M-4	demonstrate positive decision-making and problem-solving skills; and	(1,2)
5-M-5	develop strategies and skills for attaining personal health goals.	(1,2)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§911. Standard 6

A. Students will demonstrate the ability to advocate personal, family, and community health.

B. Benchmarks 5-8. By the end of grades 5-8 level students should know and be able to:

6-M-1	develop strategies to encourage and influence others in making positive health choices (e.g., healthy food choices, abstaining from alcohol, tobacco, and illegal drug use, etc.);	(1,2,4)
6-M-2	analyze various communication methods to accurately express health ideas and opinions;	(1,3)
6-M-3	identify barriers to effective communication about health issues; and	(2,3,4)
6-M-4	demonstrate the ability to work cooperatively when advocating for healthy individuals, families, and schools.	(1,5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

Chapter 11. Grades 9-12C High School Cluster Level

§1101. Standard 1

A. The students will comprehend concepts and strategies related to health promotion and disease prevention.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

1-H-1	analyze the impact of behavior on health maintenance and disease prevention;	(1,2,3,4,5)
1-H-2	identify the causes, symptoms, treatment and prevention of various diseases and disorders (e.g., cardiovascular diseases, STDs, eating disorders);	(2,3,4)
1-H-3	describe interrelationship(s) of mental, emotional, social, and physical health throughout the life span;	(1,2,4)
1-H-4	explain the impact of personal health behaviors on the functioning of body systems;	(2,3,4)
1-H-5	describe the influence of family, peers, and community on the health of individuals; and	(1,2,4)
1-H-6	evaluate environmental influences on the health of individuals in their home, community, and world.	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§1103. Standard 2

A. The students will demonstrate the ability to access and evaluate the validity of health information and health-promoting products and services.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

2-H-1	evaluate the validity of health information, products, and services using a variety of resources;	(2,3,4)
2-H-2	identify factors that influence personal selection of health products and services;	(2,3)
2-H-3	identify school and community health services available for self and others	(1,3,5)
2-H-4	analyze the cost and accessibility of health care products and services; and	(2,3,4)
2-H-5	examine mental, social, and physical conditions requiring professional health services (e.g., obesity, eating disorders, suicidal tendencies, depression, drug/alcohol abuse, diabetes, heart attack, burns, etc.).	(1,2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§1105. Standard 3

A. The students will demonstrate the ability to practice positive health behaviors and reduce health risks.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

3-H-1	describe the role of individual responsibility for enhancing health by analyzing the short-term and long-term consequences of behaviors throughout the life span (safe, high-risk, and harmful behaviors);	(2,3)
3-H-2	demonstrate the ability to use critical thinking when making decisions related to health needs and risks of young adults;	(2,3)
3-H-3	evaluate a personal health survey to determine strategies for health enhancement and risk reduction;	(2,3,4)
3-H-4	develop strategies to improve or maintain health and safety on personal, family, community, and world levels;	(1,2,3)
3-H-5	demonstrate ways to reduce threatening situations to avoid violence; and	(1,2,5)
3-H-6	design strategies to manage stress.	(2,3)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§1107. Standard 4

A. Students will analyze the influence of the media, technology, economy, culture and other factors on health through the use of technological resources.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

4-H-1	investigate how cultural diversity and economy enrich and challenge health behaviors;	(2,3,4)
4-H-2	evaluate the impact of technology and media on personal, family, community, and world health; and	(1,2,3,4)
4-H-3	explain how information from peers, family and community influence health.	(1,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§1109. Standard 5

A. Students will demonstrate individual and interpersonal communication skills necessary to enhance health.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

5-H-1	demonstrate effective communication skills and identify the impact of communication on relationships with family, peers, and others;	(1,2,4)
5-H-2	demonstrate positive, effective methods of expressing needs, wants, feelings, care, consideration, and respect for self and others;	(1,2,5)
5-H-3	identify strategies for solving intrapersonal and interpersonal conflicts without harming self or others;	(1,2,5)
5-H-4	identify the possible causes of conflict in schools, families, and communities;	(1,2,5)
5-H-5	plan and demonstrate refusal, negotiation, and collaboration skills to avoid potentially harmful situations;	(1,2,5)
5-H-6	identify personal goals for improving or maintaining lifelong personal health; and	(3,4)
5-H-7	formulate a plan and evaluate the progress for attaining personal health goals.	(2,3,4)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

§1111. Standard 6

A. Students will demonstrate the ability to advocate personal, family, and community health.

B. Benchmarks 9-12. By the end of the grades 9-12 level students should know and be able to:

6-H-1	predict immediate and long-term impact of health decisions on the individual, family and community;	(2,3,4)
6-H-2	effectively communicate concerns and information about immediate and/or long-term impact of health decisions in order to influence others;	(3,4)
6-H-3	identify effective strategies to overcome barriers when communicating information, ideas, feelings, and opinions about health issues (refusal skill, assertiveness, problem-solving, communication skills);	(1,2,3,4,5)
6-H-4	demonstrate techniques that influence and support others in making positive health choices (positive peer pressure); and	(1,3,4)
6-H-5	demonstrate the ability to work cooperatively when advocating for healthy communities and environments.	(1,5)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:

Family Impact Statement

In accordance with Sections 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the rule proposed for adoption, repeal or amendment. All family impact statements shall be kept on file in the state board office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

Please respond to the following:

1. Will the proposed rule effect the stability of the family?

- no
- yes
- lacks sufficient information to determine

2. Will the proposed rule effect the authority and rights of parents regarding the education and supervision of their children?

- no
- yes
- lacks sufficient information to determine

3. Will the proposed rule effect the functioning of the family?

- no
- yes
- lacks sufficient information to determine

4. Will the proposed rule effect family earnings and family budget?

- no
- yes
- lacks sufficient information to determine

5. Will the proposed rule effect the behavior and personal responsibility of children?

- no
- yes
- lacks sufficient information to determine

6. Is the family or a local government able to perform the function as contained in the proposed rule?

- no
- yes
- lacks sufficient information to determine

Interested persons may submit comments until 4:30 p.m., July 9, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Part LIX. Bulletin 103C Louisiana Health Education Content Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of the Louisiana Health Education Content Standards will cost the state Department of Education approximately \$3,810.00 for preparing and disseminating the new policy. Local school districts offer health education courses, but the Health Education Content Standards should improve education practices and coherence in the local health education programs.

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)

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
0205#015

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
CJobs for Louisiana's Graduates (JLG) Program (LAC 28:1.901)

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 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The

proposed revision will add a statewide course elective code for the Jobs for Louisiana's Graduates (JLG) Program. The proposed change is being requested to provide a standard statewide code, eliminating the process to apply for a Locally Initiated Elective and create course code.

**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 by the Board of Elementary and Secondary Education in LR 27:694 and 695 (May 2001), LR 27:815 (June 2001) LR 28:

Jobs for Louisiana's Graduates (JLG) Program

2.105.08

Jobs for Louisiana's Graduates elective course credit toward high school graduation shall be awarded to any student who successfully masters the Jobs for Louisiana's Graduates' core competencies and other additional competencies in the model curriculum.

Jobs for Louisiana's Graduates shall be as follows:

Course Title	Units
Jobs for Louisiana's Graduates I, II, III, and IV	1-3 credits each

Teachers shall be certified in any secondary certification or Jobs for Louisiana's Graduates VTIE certification.

Interested persons may submit written comments until 4:30 p.m., July 9, 2002, 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: Louisiana Handbook for
School Administrators C Jobs for
Louisiana's Graduates (JLG) Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will add a statewide course elective code for the Jobs for Louisiana's Graduates (JLG) Program. There will be no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change is being requested to provide a standard statewide code, eliminating the process to apply for a Locally Initiated Elective and create course code.

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
0205#047

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 Policy for Louisiana's Public Education Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.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 it pertains to the appeals process for district accountability

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

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, 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 by the Board of Elementary and Secondary Education LR 26:635 (April, 2000), LR 26:1260 (June, 2000), LR 26:1260, 1261 (June, 2000), LR 28:

The Louisiana School and District Accountability System Appeals Procedures

1.007.05 An appeal procedure has been authorized by the State Board of Elementary and Secondary Education (SBESE) and shall be used to address unforeseen and unusual factors impacting districts in Louisiana.

The Department shall review appeal requests and make recommendations to the SBESE within sixty days of receipt of an appeal request. Within this interval, the Department shall notify LEAs of its recommendations and allow them to respond. 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 District Performance Score (DPS) and/or District Responsibility Index (DRI). See Standard 1.007.01.)

Criteria for Appeal

A district may request an appeal if:

1. The recalculated District Performance Score (DPS) results in a change of at least five points (+/-5).
2. The overall recalculated District Responsibility Index (See Standard 1.007.01.) and/or one of its four indicators results in a change in the performance label assigned.
3. Factors beyond the reasonable control of the local governing board of education (LEA) and also beyond the reasonable control of the school(s) within the LEA exist.

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 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 official release of the District Performance Scores and the Performance Labels for the District Responsibility Index.

Data corrections shall not be grounds for an appeal request unless evidence attributes data errors to the LDE.

Supporting documentation for appeal requests should clearly identify those data that are erroneous due to LDE error.

General Guidelines: Parent/School-Level Requests

Parents or individual schools seeking an appeal 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.

Interested persons may submit written comments until 4:30 p.m., July 9, 2002, 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 741C Louisiana Handbook For School Administrators C Policy for Louisianas 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 process for district accountability.

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. Langely
Deputy Superintendent
Management and Finance
0205#021

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 Pre-GED/Skills Option Program (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 being proposed to update Pre-GED/Skills Options Policy. In revising the testing language the Pre-GED/Skills Options Policy will be aligned with Special Education Guidelines.

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 by the Board of Elementary and Secondary Education in LR 27:694 and 695 (May 2001), LR 27:815 (June 2001), LR 28:

Pre-GED/Skills Option Program

1.151.05. A school system shall implement the Pre-GED/Skills Option Program and shall obtain approval from the State Department of Education at least 60 days prior to the establishment of the program. Program components may be phased in with full implementation required by school year 2002-2003.

(See High Stakes Testing Policy in Bulletin 1566.)

A program application describing the Pre-GED/Skills Program shall be submitted and shall address the following program requirements:

1. Students shall be 16 years of age or older and meet one or more of the following criteria:
 - *Shall have failed LEAP 21 English language arts and/or math 8th grade test for one or two years;
 - *Shall have failed English language arts, math, science and/or social studies portion of the GED;
 - *Shall have participated in out-of-level testing or alternate assessment;
 - *Shall earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, not more than 15 Carnegie units by age 19.
2. Enrollment is voluntary and requires parent/guardian consent.
3. Counseling is a required component of the program.
4. The program shall have both a Pre-GED/academic component and a Skills/job training component. Traditional Carnegie credit course work may be offered but is not required. Districts are encouraged to work with local postsecondary institutions, youth-serving entities, and/or businesses in developing the Skills component.
5. BESE will require the Pre-GED/Skills Option Program to be on a separate site. Exceptions will be considered based on space availability, transportation or a unique issue.
6. Students who complete only the Skills section will be given a Certificate of Skills completion.
7. Students will count in the October 1 MFP count.
8. Students will be included in School Accountability. While enrolled, they will be required to take the ninth grade Iowa Test, participate in out-of-level testing or alternate assessment. All programs will be considered Option 1 for alternative education purposes, and student data will be sent back to the high schools to be included in the attendance and dropout rates and in the Iowa Test scores.

(See Standards 2.006.17 or Bulletin 741.)

Refer to the Guidelines of Application Packet provided by the Louisiana Department of Education for the requirements to establish a Pre-GED/Skills Option Program.

* * *

Interested persons may submit written comments until 4:30 p.m., July 9, 2002, 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 741C Louisiana Handbook For School AdministratorsC Pre-GED/Skills Option Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revision will change the Pre-GED/Skills Options Policy found in Bulletin 741. This change will align the policy with Special Education Guidelines. There will be no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change is being requested to bring current testing options for students in the Pre-GED/Skills Options Program in-line with Special Education Guidelines.

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
0205#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Final Deadline for Full Award
(LAC 28:IV.503)

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.

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 5. Application; Application Deadlines and Proof of Compliance

§503. Application Deadlines

A. - A.4. ...

B. Final Deadline for Full Award

1. In order to receive the full benefits of a TOPS award as provided in §701.E and §803.D, the final deadline for receipt of a student's initial FAFSA application is July 1 of the Academic Year (High School) in which a student graduates. For example, for a student graduating in the 2000-2001 Academic Year (High School), the student must submit the initial FAFSA in time for it to be received by the federal processor by July 1, 2001.

2. Notwithstanding the deadline established by §503.B.1 above, applicants who enter on active duty in the U.S. Armed Forces have a final deadline for receipt of their initial FAFSA application of one year from the date of separation from active duty. In order to be eligible under this Subsection, the applicant must meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these Rules and must not have been discharged with an undesirable, bad conduct or dishonorable discharge.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 25:1994 (September 2000), repromulgated LR 27,1847 (November 2001), amended LR 28:447 (March 2002), LR 28:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., June 20, 2002, to Jack L.

Guinn, Executive Director, Office of the 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: Final Deadline for Full Award

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Ten applicants for whom the deadline extension would be applicable have been identified. We do not know how many of these will be found eligible after additional eligibility criteria have been considered. Sufficient funds to cover additional costs are available in the current TOPS budget. Impact of this deadline extension for future years is not known.

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)

The rule change will provide an extended TOPS application deadline for students who enlist in the active duty in the U.S. Armed Forces.

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
0205#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Control of Emission of Organic Compounds
Calcasieu Parish (LAC 33:III.Chapter 21)(AQ219A)

Editor's Note: The following Notice of Intent is being repromulgated to correct an error. The original Notice of Intent may be viewed in the March 20, 2002 edition of the *Louisiana Register* on pages 566-569.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2103, 2104, 2115, 2122, 2123, 2125, 2143, and 2153 (Log #AQ219A).

Proposed rule AQ219 was previously published in the *Louisiana Register* on July 20, 2001, and affected the parishes of Beauregard, Calcasieu, Cameron, and Jefferson Davis. Upon further evaluation of air quality monitoring data for the area, and after review and consideration of comments received, AQ219 was withdrawn on October 20, 2001. The regulation was revised and a Notice of Intent regarding the amended proposed rulemaking (AQ 219A) was published in

the March 20, 2002, issue of the Louisiana Register. The Notice of Intent published on March 20, 2002, incorrectly stated that the rulemaking was applicable to Calcasieu Parish only. However, changes to LAC 33:III.2103.E and 2103.I.7 that are included in AQ 219A have statewide applicability. Those changes made to LAC 33:III.2104, 2115, 2122, 2123, 2125, 2143 and 2153 are applicable to Calcasieu Parish only. Because of this error, AQ219A is being republished as a Notice of Intent with a new public hearing date and comment period. The text of the amended regulation has not changed.

This proposed rule revision affects Calcasieu Parish by lowering applicability thresholds in selected sections of Chapter 21. These sections regulate storage of volatile organic compounds, crude oil and condensate, waste gas disposal, fugitive emission control for ozone nonattainment areas, organic solvents, vapor degreasers, graphic arts (printing) by rotogravure and flexographic processes, and VOC emissions from wastewater. Calcasieu Parish experienced ozone exceedance days during the years 1998, 1999, and 2000. Four or more exceedances during any consecutive three-year period constitute a violation of the ozone National Ambient Air Quality Standard (NAAQS). In accordance with activated contingency measures established in the approved air quality Maintenance Plan for Calcasieu Parish, a control strategy must be developed and appropriate control measures implemented in an effort to maintain Calcasieu's current attainment designation and to protect air quality in the area. This Rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP). The basis and rationale for this proposed rule are to continue achieving compliance with the NAAQS for ozone in Calcasieu Parish to protect the air quality of the state of Louisiana.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

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

E. Vapor Loss Control System. A vapor loss control system consists of a gathering system capable of collecting the volatile organic compound (VOC) vapors and a vapor disposal system capable of processing such organic vapors. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

1. The vapor loss control system shall reduce inlet emissions of total volatile organic compounds by 95 percent or greater.

2. Notwithstanding Paragraph E.1 of this Section, if the vapor loss control system was installed on or before December 31, 1992, then the vapor loss control system shall reduce inlet emissions of total volatile organic compounds by 90 percent or greater.

3. The specifications and requirements in Paragraph E.1 or 2 of this Section do not apply during periods of planned routine maintenance. Periods of planned routine maintenance of the vapor loss control system, during which the vapor loss control system does not meet the specifications of Paragraph E.1 or 2 of this Section, as applicable, shall not exceed 240 hours per year.

F. - I.6. ...

7. records of planned routine maintenance performed on the vapor loss control system, including the duration of each time the vapor loss control system does not meet the specifications of Paragraph E.1 or 2 of this Section, as applicable, due to the planned routine maintenance. Such records shall include the information specified as follows:

a. the first time of day and date the requirements of Subsection E of this Section were not met, at the beginning of the planned routine maintenance; and

b. the first time of day and date the requirements of Subsection E of this Section were met, at the conclusion of the planned routine maintenance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:

§2104. Crude Oil and Condensate

A. Applicability. This Section applies to any oil and gas production facility (SIC Code 1311), natural gas processing plant (SIC Code 1321), or natural gas transmission facility (SIC Code 4922) that has a potential to emit more than 50 Tons Per Year (TPY) of flash gas to the atmosphere in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge or more than 100 TPY of flash gas to the atmosphere in any other parish.

B. - C.1. ...

2. For facilities in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 50 TPY.

3. For facilities in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent, or reduced to a potential to emit of less than 100 TPY.

D. - D.3. ...

E. Compliance Schedule. For equipment located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, compliance shall be achieved as soon as practicable, but no later than September 1, 1998. For equipment located in the parish of Calcasieu

with a potential to emit less than 100 TPY, compliance shall be achieved as soon as practicable, but no later than [date to be inserted one year from promulgation]. For all other facilities compliance shall be achieved as soon as practicable, but no later than May 1, 1999.

F. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1497 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2115. Waste Gas Disposal

Any waste gas stream containing VOCs from any emission source shall be controlled by one or more of the applicable methods set forth in Subsections A-G of this Section. This Section shall apply to all waste gas streams located at facilities that have the potential to emit 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, or 100 TPY or more of VOCs in any other parish. This Section does not apply to waste gas streams that must comply with a control requirement, meet an exemption, or are below an applicability threshold specified in another section of this Chapter. This Section does not apply to waste gas streams that are required by another federal or state regulation to implement controls that reduce VOCs to a more stringent standard than would be required by this Section.

A. - H.1. ...

a. it can be demonstrated that the waste gas stream is not a part of a facility that emits, or has the potential to emit, 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge or 100 TPY or more of VOCs in any other parish;

H.1.b. - I.5. ...

J. Compliance. All facilities affected by this Section shall be in compliance as soon as practicable but in no event later than [date to be inserted one year from promulgation].

J.1. - M. Waste Gas Stream. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:960 (November 1990), LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 19:317 (March 1993), LR 22:1212 (December 1996), LR 24:21 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2122. Fugitive Emission Control for Ozone

Nonattainment Areas and Specified Parishes

A. - A.1. ...

2. This Section is applicable to sources in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

3. The requirements of this Section shall be effective for sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge starting January 1, 1996.

4. The requirements of this Section shall be effective for sources located in the parish of Calcasieu starting January 1, 2003.

5. When the provisions of this Section are effective, process units to which this Section applies that are also subject to the provisions of LAC 33:III.2121 will not be required to comply with the provisions of LAC 33:III.2121.

A.6. - G.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:

Subchapter B. Organic Solvents

§2123. Organic Solvents

A. - D.5. ...

6. Surface coating facilities on any property in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes that when controlled have a potential to emit, at maximum production, a combined weight (total from the property) of VOCs less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C of this Section. Surface coating facilities on any property in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge that when uncontrolled have a potential to emit a combined weight of VOCs less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of Subsection C of this Section.

D.7. - G.. Repair and Maintenance Thermoplastic Coating ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR:28

Subchapter C. Vapor Degreasers

§2125. Vapor Degreasers

A. - C.2.j. ...

D. Exemptions. Except as required in this Subsection, a vapor degreaser emitting 100 pounds (45 kilograms) or less of VOCs in any consecutive 24-hour period (uncontrolled) is exempt from the provisions of this Section provided the total emissions from all the vapor degreasers at the facility combined are less than 100 tons/year of VOCs, uncontrolled. If these two conditions are not met, the provisions of this Section must apply. For Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, the requirements of this Section apply

to all solvent metal cleaners, except as stated in this Subsection.

D.1. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:962 (November 1990), LR 18:1122 (October 1992), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR:28

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

A. Control Requirements. No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility having a potential to emit 50 TPY or more of VOCs in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, or having a potential to emit 100 TPY or more of VOCs in any other parish, unless VOC emissions are controlled by one of the methods in Paragraphs A.1-5 of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

A.1. - 5. ...

B. Applicability Exemption. A rotogravure or flexographic printing facility that has the potential to emit, at full production (8760 hours per year basis), a combined weight of VOCs of less than 50 TPY (in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge) or 100 TPY (in any other parish), calculated from historical records of actual consumption of ink, is exempt from the provisions of Subsections A and C of this Section and need only comply with Subsection D of this Section.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:

Subchapter M. Limiting Volatile Organic Compound Emissions From Industrial Wastewater

§2153. Limiting VOC Emissions From Industrial Wastewater

A. - H.5. ...

I. Parishes and Compliance Schedules. For the affected facilities in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes, any person who is the owner or operator of an affected source category within a plant shall be in compliance with these regulations no later than November 15, 1996. If an additional affected VOC wastewater stream is generated as a result of a process change, the wastewater shall be in compliance with this Section upon initial startup

or by November 15, 1998, whichever is later, unless the owner or operator demonstrates to the administrative authority* that achieving compliance will take longer. If this demonstration is satisfactory to the administrative authority*, compliance shall be achieved as expeditiously as practicable, but in no event later than three years after the process change. An existing wastewater stream that becomes an affected VOC wastewater stream due to a process change must be in compliance with this Section as expeditiously as practicable, but in no event later than three years after the process change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:

A public hearing on the proposed rule and the SIP revision will be held on June 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ219A. Such comments must be received no later than July 1, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ219A.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Control of Emission of Organic Compounds C Calcasieu Parish

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The exact impact this rule will have on a facility will vary. Many of these facilities are already regulated by the federal SOCM (Synthetic Organic Chemical Manufacturing Industry) regulations or by federal or state MACT (Maximum Achievable Control Technology) regulations, so the proposed rule will have no effect at all.

In the case of the Fugitive Emissions control rule, those directly affected facilities are already required to perform regular monitoring. The proposed rule will not change monitoring intervals, only the enforcement threshold. When leaks are discovered they are generally fixed regardless of the regulatory threshold because leakage represents waste (monetary loss) and can potentially create a toxic situation or result in a fire hazard.

The department does not have information on the number or percent of facilities that will be affected by the proposed rule. However, the department believes that, on the whole, compliance costs will not be excessive. No other cost information is available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

James H. Brent, Ph.D.
Assistant Secretary
0205#064

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Dissolved Oxygen Criteria for Bayou Courtableau
(LAC 33:IX.1123)(WQ044)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123.C.3.Table 3 (Log #WQ044).

The numerical dissolved oxygen criteria for Water Quality Management Subsegment 060204, Bayou Courtableau, in the Vermilion-Teche Basin, is being revised. A Use Attainability Analysis of this subsegment has determined that critical periods for dissolved oxygen occur during parts of each year. While Bayou Courtableau exhibits naturally occurring seasonal variations in dissolved oxygen, no changes in designated uses are proposed. The recommended dissolved oxygen criteria changes are: 3.0 mg/L May through September, and 5.0 mg/L October through April. As part of the Louisiana Water Quality Management Plan, the state publishes a list of priority water bodies biennially under the Clean Water Act, Section 305(b). In accordance with the Clean Water Act, Section 303(d), water bodies are placed on a list of priority water bodies when assessment methodology indicates that they do not meet applicable water quality standards. After further review and assessment, some of these water bodies may be prioritized for fieldwork, Use Attainability Analyses, and Total Maximum Daily Load development. Until a Use Attainability Analysis is conducted to determine attainable uses and criteria, a Total Maximum Daily Load based upon national criteria may be inappropriate for many water bodies. Bayou Courtableau (060204) has been classified as the highest priority on Louisiana's 303(d) list. A Use Attainability Analysis has been conducted for this water body to determine the appropriate dissolved oxygen criteria. The Use Attainability Analysis presents the required information for a site-specific dissolved oxygen water quality standards revision in accordance with state and federal water quality regulations,

policies, and guidance. The basis and rationale for this rule are to establish site-specific criteria and designated uses for Bayou Courtableau (060204) developed as a result of the Use Attainability Analysis.

This proposed Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. - C.2. ...

3. Designated Uses. The following are the category definitions of Designated Use that are used in Table 3 under the subheading "Designated Uses."

- ACPrimary Contact Recreation
 - BCSecondary Contact Recreation
 - CCPropagation of Fish and Wildlife
 - LCLimited Aquatic Life and Wildlife Use
 - DCDrinking Water Supply
 - ECOyster Propagation
 - FCAgriculture
 - GCOutstanding Natural Resource Waters
- Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3 Numerical Criteria and Designated Uses									
ACPrimary Contact Recreation; BCSecondary Contact Recreation; CCPropagation of Fish and Wildlife; DCDrinking Water Supply; ECOyster Propagation; FCAgriculture; GCOutstanding Natural Resource Waters; LCLimited Aquatic Life and Wildlife Use									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO4	DO	pH	BAC	°C	TDS
	Atchafalaya River Basin (01)								
*** [See Prior Text In 010101-050901]									
	Vermilion-Teche River Basin (06)								
*** [See Prior Text In 060101-060203]									
060204	Bayou Courtableau - origin to West Atchafalaya Borrow Pit Canal	A B C	40	30	[22]	6.0-8.5	1	32	220
*** [See Prior Text In 060206-120806]									

ENDNOTES:

[1]-[21]...

[22] Site-specific Seasonal DO Criteria: 3 mg/L May-September, 5 mg/L October-April.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:

A public hearing will be held on June 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290

Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by WQ044. Such

comments must be received no later than July 1, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of WQ044.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Dissolved Oxygen Criteria for Bayou
Courtableau**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No significant effect of this proposed rule on state or local governmental expenditures is expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition and employment is anticipated.

James H. Brent, Ph.D.
Assistant Secretary
0205#038

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Inactive or Uncontrolled Sites CNotification Procedures
(LAC 33:VI.201)(IA004)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Inactive and Abandoned Hazardous

Waste and Hazardous Substance Site Remediation regulations, LAC 33:VI.201 (Log #IA004).

The proposed Rule revises the procedures for notifying the department of the discovery of a discharge or disposal of any hazardous substance at an inactive or uncontrolled site to be consistent with the notification procedures required by all other department regulations. The proposed Regulation will require reporting to the department's Single Point of Contact. This action will make the Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation regulations consistent with all other department regulations with regard to release/discharge reporting. The basis and rationale for this Rule are to have consistency in the notification procedures for release/discharges.

This proposed Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

**Part VI. Inactive and Abandoned Hazardous Waste and
Hazardous Substance Site Remediation**

Chapter 2. Site Discovery and Evaluation

§201. Site Discovery

A. - B.1.d. ...

2. The department must be notified regardless of whether the contaminants were discovered before or after the effective date of these regulations. Notification shall be made to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by email utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance within 24 hours of the discovery of the discharge or disposal of any hazardous substance at an inactive or uncontrolled site.

B.3. - B.5.f. ...

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the department any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made by contacting the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by email utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance.

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2182 (November 1999), amended LR 26:2511 (November 2000), LR 28:

A public hearing will be held on June 24, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly

to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by IA004. Such comments must be received no later than July 1, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to patsyd@deq.state.la.us. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of IA004.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Inactive or Uncontrolled
SitesC Notification Procedures**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
0205#037

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Certification for Substance Abuse Counselors**

Certification; Practice; Organization; Fees; Examination;
Continuing Education; Impaired Professionals Program;
Ethics; Registrations; Board Approved Programs;
Investigations and Disciplinary Procedures;
Supervision and Miscellaneous Provisions
(LAC 46:LXXX.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17 and 19)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Certification for Substance Abuse Counselors (Board), pursuant to the authority vested in the board by R.S. 37:3374 intends to amend its existing Rules as set forth below. The proposed amendments to the Rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXXX. Board of Certification for Substance Abuse
Counselors
Chapter 1. General Provisions**

§101. Scope

A. The rules of this Part are relative to and govern the Louisiana State Board of Certification for Substance Abuse Counselors (the Board) within the Department of Health and Hospitals, the certification for substance abuse counselors, compulsive gambling counselor, and prevention specialists and the practice of substance abuse counseling, compulsive gambling, and primary prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989); amended LR 19:627, (May 1993), amended LR 25:1241 (July 1999), LR 28:

§105. Definitions

A. As used in these rules, the following terms shall have the meanings specified.

* * *

Board Approved Clinical Training Program Any clinical setting involving substance abuse or compulsive gambling treatment, substance abuse or compulsive gambling counseling services or prevention intervention services which has applied for, received, and maintained approval by the board. The board shall provide for institutions to register as being board approved for clinical training in substance abuse counseling, compulsive gambling counseling, and prevention.

Board Approved Educational Program Any course, workshop, seminar, conference or other educational program presented by an organization which has applied for, received, and maintained approval by the board. The board

shall provide for organizations to register as being board approved as an education provider in the field of substance abuse counseling, compulsive gambling counseling, and prevention.

Board Approved Institution of Higher Education Any college or university accredited by a recognized regional accrediting body which has applied for, received, and maintained approval of the board. The board shall provide for institutions of higher education to register as being board approved for higher education in substance abuse counseling, compulsive gambling counseling, and prevention.

Core Functions the screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, referral, reports and record keeping activities associated with substance abuse and compulsive gambling counseling, and consultation with credentialed professionals.

Counselor in Training or Prevention Specialist in Training Any person who has not yet met the qualifications to become certified in a particular field but has made an application to be certified in a particular field prescribed in R.S. 37:3376 and is registered as such by the board.

Direct Supervision of a counselor in training or prevention specialist in training by a registered counselor supervisor or qualified professional supervisor means responsible, continuous, on-the-premises observation whereby the board approved supervisor is personally present in the servicing facility and immediately available to the service area. Direct supervision may include treatment team or staffing meetings, observation in group, individual, family, education or other, private conversations (one to one) discussing cases of functions or review of chart or medical records. A registered counselor supervisor or qualified professional supervisor providing direct supervision shall be ultimately responsible for the acts or omissions of the counselor in training or prevention specialist in training he is supervising.

Performance Domains for prevention specialists are:

- a. program coordination;
- b. education and training;
- c. community organization;
- d. public policy;
- e. planning and evaluation; and
- f. professional responsibility.

Prevention Counselor Repealed. (Term has been changed to *prevention specialist*.)

Prevention Specialist—(formerly *prevention counselor*) any person who, by means of his special knowledge acquired through formal education and practical experience, is qualified to provide prevention intervention services that utilize the performance domains specific to prevention and is certified as such by the board. The board shall consider any person providing such services as purporting to be a prevention specialist.

Qualified Professional Supervisor A substance abuse counselor who has been certified and has worked in a licensed or board approved substance abuse treatment program for a minimum of two years; or a compulsive gambling counselor or prevention specialist who has been

certified and has worked in a licensed or board approved treatment program in his area of certification for a minimum of two years; or a credentialed professional such as a board certified social worker, licensed psychologist, or licensed physician; or any other professional recognized as a trainer by the board upon presentation of verification and documentation of expertise, such as a registered counselor supervisor.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:628 (May 1993), LR 25:1241 (July 1999), LR 28:

Chapter 3. Practice
§301. Scope of Practice

A. - B. ...

C. The practice of prevention within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to those at risk of alcohol, tobacco and other drugs and to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle free of abuse and no longer in need of prevention intervention services. The scope of the practice shall include making appropriate referrals to qualified professionals and utilizing the performance domains of prevention.

D. Nothing in these rules and regulations shall be construed to authorize a substance abuse counselor, compulsive gambling counselor, or prevention specialist to practice medicine, social work, or psychology, or to provide counseling for disorders other than substance abuse or compulsive gambling, or for prevention. A substance abuse counselor, compulsive gambling counselor, or prevention specialist shall not order, administer, or interpret psychological tests or utilize psychometric procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:629 (May 1993), amended LR 25:1241 (July 1999), LR 28:

§303. Minimum Standards of Practice

A. The minimum standard of practice will be met if:

- 1. the counselor or specialist is certified and in good standing with the board;
- 2. the counselor or specialist adheres to the code of ethics as set forth in these rules; and
- 3. the counselor or specialist practices within the scope of practice defined in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:629 (May 1993), LR 28:

Chapter 5. Fees and Board Documents

§501. Fees

A. - C. ...

D. In accordance with R.S. 37:3377.A of the Substance Abuse Counselor Certification Act the fee schedule shall be as follows:

Application	\$100
Initial Certification	\$200
Certification by Reciprocity from Another State	\$200
Renewal of Certification	\$200
Late Fee for Renewal of Certification	\$150
Reinstatement of Certification	\$200
Appeal/Evaluation of Exam Decision	\$150
Registration as Counselor in Training or Prevention Specialist in Training	\$ 75
Renewal of Registration as Counselor in Training or Prevention Specialist in Training	\$ 75
Registration as Registered Counselor Supervisor	\$150
Renewal of Registration as Registered Counselor Supervisor	\$150
Registration as Approved Training Institution	\$200
Renewal of Registration as Approved Training Institution	\$200
Registration as Approved Education Provider	\$200
Renewal of Registration as Approved Education Provider	\$200
Registration for Approved Educational Provider Single Course	\$ 60
Registration as Approved Institution of Higher Education	\$200
Renewal of Registration as Approved Institution of Higher Education	\$200
Late Fee for Renewal of Any Registration	\$150

E. All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:629 (May 1993), LR 28:

§503. Board Documents

A. Official Records

1. Official records of the board shall be maintained at the office of the board or other depository authorized by the board.

2. All official records of the board including application materials, except materials containing information considered confidential, shall be open for inspection during regular office hours.

3. Any person desiring to examine official records shall be required to properly identify himself and sign statements listing the records questioned and examined. Records which are stored in historical files or which have been authorized for off site storage may require a fee for research and location.

4. Official records shall not be taken from the board's office. Persons may obtain copies of records upon written request and by paying a fee prescribed by the board.

B. Certificate

1. The board shall prepare and provide to each certified counselor or specialist a certificate which lists the counselor's or specialist's name, date of initial certification, and certification number.

2. Original certificates shall not be issued until the application has been evaluated and approved by official action of the board. The board may set the effective date and expiration date of the certificate at the time of approval.

3. Replacement certificates shall be issued when the required request has been received and fee paid. Replacement certificates shall contain the same information as the original certificate.

4. Official certificates shall be signed by the chairman, vice chairman, and secretary-treasurer, and be affixed with the official seal of the State of Louisiana. Certificates shall be signed by officers who are serving at the time the certificate is issued.

5. Currency of the certificate shall be documented by a wallet card issued by the board with the date of certification or renewal and the date of expiration.

C. Roster and Mailing Lists

1. Each year the board shall make available a roster of Board Certified Substance Abuse Counselors, Board Certified Compulsive Gambling Counselors, and Board Certified Prevention Specialists.

2. The roster shall include, but not be limited to, the name, address, and telephone number of each counselor or specialist. It is the counselor's or specialist's responsibility to keep the board informed of changes of address or other information.

3. The board shall make copies of the roster available to counselors, specialist's, interested agencies, and the general public upon request and at a cost prescribed by the board.

4. The use of mailing lists may be obtained from the board by submitting the prescribed fee with a written request, including delivery instructions, to the office of the board.

5. Rosters and mailing lists are the property of the board and shall not be distributed nor used by any party other than that which initially obtained a copy.

D. Notice and Receipt

1. Notices and communications are official when signed by a member of the board or other person so designated and mailed to the address of record.

2. The receipt of applications, forms, notices, and other communications by the board shall be determined by the date when received in the office of the board.

3. The board shall not be responsible for delay in delivery.

E. - R.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1075 (December 1989), amended LR 19:629 (May 1993), LR 28:

Chapter 7. Certification

§701. Requirements

A. - A.1. ...

2. is a legal resident of the United States;

3. ...

4. is not and has not been a compulsive gambler or an abuser of alcohol or other drugs during the previous two years;

5. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony. However, the board in

its discretion may waive this requirement upon review of the individual's circumstances;

6. provides evidence of having earned educational credit sufficient to satisfy the requirements for substance abuse counselor certification and of having successfully completed the experiential requirements for substance abuse counselor certification as prescribed by the board which include:

a. has successfully completed a minimum of 30 semester hours of substance abuse courses with a minimum of 12 semester hours of substance abuse courses from an accredited and board approved institution of higher education and the remainder, up to 18 equivalent hours, granted by a board approved institution of higher education or other board approved educational program at the rate of 15 contact hours per one semester hour;

b. possesses a master's degree from an accredited institution of higher education in human sciences approved by the board which includes, but is not limited to, one of the following areas: nursing, criminal justice, social work, social welfare, sociology, substance abuse, psychology, mental health, counseling, education counseling, or family, child, and consumer science, and provides evidence of having successfully completed one-year of full-time clinical training in board-approved institutions in the actual performance of each of the core functions with substance abuse clients while under the supervision of a qualified professional, including direct supervision in each of the 12 core functions, with a minimum of one contact hour per week; or

c. possesses a bachelor's degree from an accredited institution of higher education in human sciences approved by the board which includes, but is not limited to, one of the following areas: nursing, criminal justice, social work, social welfare, sociology, substance abuse, psychology, mental health counseling, education counseling or family, child and consumer science, and provides evidence of having successfully completed two years of full-time clinical training in board-approved institutions in the actual performance of each of the core functions with substance abuse clients while under the supervision of a qualified professional, including direct supervision in each of the 12 core functions, with a minimum of one contact hour per week;

d. possesses a bachelor's degree in a field other than human sciences, as well as provides evidence of having successfully completed three years of full-time clinical training in board-approved institutions in the actual performance of each of the core functions with substance abuse clients while under the supervision of a qualified professional, including direct supervision in each of the 12 core functions, with a minimum of one contact hour per week;

7. demonstrates professional competency in substance abuse counseling by passing a written and oral examination prescribed by the board;

8. makes application and pays the fees prescribed by the board;

9. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately

prepare him to be able to demonstrate professional competency in substance abuse counseling;

10. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in substance abuse counseling; and

11. credit received for practicum, internship or other experiential education may be claimed for education or experience, but not both.

12. - 13. Repealed.

B. Certification as a Counselor by Reciprocity from Other States. The board may issue a certificate, without examination in this state, to any person who:

1. submits an application and pays the fees equivalent to those required for the initial application and examination;

2. possesses a valid certificate to practice as a substance abuse counselor in any other state of the United States;

3. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of Subsection A of this Section.

C. Initial Compulsive Gambling Counselor Certification. The board shall issue a certification as a board certified compulsive gambling counselor to each candidate who:

1. is at least 21 years of age and has earned a high school diploma or its equivalent;

2. is a legal resident of the United States;

3. is not in violation of any ethical standards subscribed to by the board;

4. is not and has not been an abuser of alcohol or other drugs and not a compulsive gambler during the previous two years;

5. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony. However, the board in its discretion may waive this requirement upon review of the individual's circumstance;

6. possesses and maintains a board certification for substance abuse counseling;

7. successfully completes 30 clock hours of gambling addiction courses from a board-certified education program;

8. demonstrates professional competency in gambling counseling by passing a written and oral examination prescribed by the board;

9. makes application and pays the fees prescribed by the board;

10. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in compulsive gambling counseling;

11. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in compulsive gambling counseling; and

12. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

D. Initial Prevention Specialist Certification. The board shall issue a certification as a Board Certified Prevention Specialist to each candidate who:

1. is at least 21 years of age and has earned a high school diploma or its equivalent;
2. is a legal resident of the United States;
3. is not in violation of any ethical standards subscribed to by the board;
4. is not and has not been an abuser of alcohol or other drugs and not a compulsive gambler during the previous two years;
5. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony. However, the board in its discretion may waive this requirement upon review of the individual's circumstance;
6. successfully completes 30 semester hours of prevention related courses approved by the board. Equivalency may be met by board-approved educational programs at the rate of 15 contact hours per one semester hour;
7. possesses a bachelor's degree from an accredited institution of higher education approved by the board in one of the following areas: nursing, criminal justice, business, social work, social welfare, sociology, substance abuse, psychology, mental health counseling, education, education counseling or family, child and consumer science;
8. completes experiential requirements prescribed by the board, including the following: two years of full-time prevention experience in board-approved institutions related to alcohol, tobacco and other drugs; 120 clock hours in the performance domains, with a minimum of 10 hours in each performance domain while under the supervision of a qualified professional, with a minimum of one contact hour per week. The performance domains are: program coordination, education and training, community organization, public policy, planning and evaluation and professional responsibility;
9. demonstrates professional competency in primary prevention by successfully passing a written examination prescribed by the board;
10. makes application and pays the fees prescribed by the board;
11. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in primary prevention;
12. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in primary prevention; and
13. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

E. Certification as a Prevention Specialist by Reciprocity from Other States. The board may issue a certificate, without examination in this state, to any person who:

1. submits an application and pays the fees equivalent to those required for the initial application examination;

2. possesses a valid certificate to practice as a prevention specialist in any other state of the United States;

3. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of Subsection D of this Section.

F. - H1.c. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1076 (December 1989), amended LR 19:631 (May 1993), amended LR 25:1241 (July 1999), LR 28:

§703. Application and Examination

A. Request for Application

1. Persons desiring information regarding certification as a board certified substance abuse counselor, board certified compulsive gambling counselor or board certified prevention specialist shall be sent an information brochure and a request for application form.

2. - 3. ...

4. An applicant shall have six months from the date issued to complete the application package and return it to the board. The application package shall expire one year from the date it is issued. However, if an applicant for certification as a substance abuse counselor or compulsive gambling counselor has successfully passed either the written or oral examination, the application period will be extended to the next consecutive examination date to allow the applicant a second test opportunity for the failed examination. Any applicant with an expired or void application package must re-apply and must re-take all portions of the examination for certification.

B. - B.3.f. ...

g. official transcripts from a college or university;

B.4 - C.3 ...

4. Upon notification that the application is acceptable, the applicant becomes a candidate for certification.

a. Candidates requiring examination are then eligible to request the examinations required for the field for which they are seeking certification.

b. ...

D. Examination

1. Candidates must request examination by submitting the required form, including a written case if required to take an oral examination, selecting an examination date 30 days in advance, and paying the examination fee set by the board.

2. The board shall determine the scope and administration of the examination to provide the opportunity for the candidate to demonstrate competency in the field for which he seeks certification.

3. - 5. ...

6. The application of a candidate for certification as a substance abuse counselor or compulsive gambling counselor who fails both parts of the examination, or the application of a candidate for certification as a prevention specialist who fails the written examination, becomes void. The candidate must re-apply and pay all applicable fees.

7. A candidate for certification as a substance abuse counselor or compulsive gambling counselor who fails either part of the examination may:

a. continue in the process as long as his application is valid, however, if the candidate has successfully passed either the written or oral examination, the application period will be extended to the next consecutive examination date to allow the candidate a second test opportunity;

b. re-take the failed part of the examination by submitting the required form, including a written case for an oral re-test, selecting a new examination date 30 days in advance, and paying the examination fee set by the board.

8. If requested in writing, the board shall provide the candidate who fails any examination, upon payment of the board's prescribed fee, an evaluation of that candidate's test performance within a reasonable time period. Within five days of the receipt of the written request and fee, the board shall notify in writing the testing authority, or its agent, of the request for the evaluation of the failed examination. Within 30 days of receipt of such written notification, the testing authority, or its agent, shall provide to the board its written evaluation in response to the candidate's request.

D.9 - E.1. ...

2. Upon receipt of the certification fee, the board shall examine the application and recommendations from the Certification Committee. The board shall issue certification as a BCSAC, BCCGC or BCPS to the candidate upon formal affirmative vote of the majority of the board present and voting provided there is a quorum present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1076 (December 1989), amended LR 19:632 (May 1993), amended LR 25:1243 (July 1999); LR 28:

§705. Renewal

A. - C.1. ...

2. Applications for renewal which do not satisfy the requirements will be deficient. The counselor or specialist will be notified and allowed to correct the deficiency. It is the counselor's or specialist's responsibility to correct the deficiency prior to the expiration date of his certification.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1077 (December 1989), amended LR 19:632 (May 1993), LR 28:

§707. Continuing Professional Education

A. Within the two years prior to application for certification renewal, all Board Certified Substance Abuse Counselors, Board Certified Compulsive Gambling Counselors, and Board Certified Prevention Specialists must have completed at least 48 clock hours of education directly applicable to substance abuse counseling, compulsive gambling counseling or prevention whichever is applicable.

B. - C.1. ...

2. client education approaches for problems of chemical dependency or compulsive gambling;

3. ...

4. chemical dependency or compulsive gambling counseling techniques including individual and group psychodynamics;

5. ...

6. chemical dependency or compulsive gambling crisis intervention skills;

7. awareness of special population needs in reference to substance abuse or compulsive gambling;

8. ...

9. basic pharmacologic knowledge and an understanding of the chemical dependency or compulsive gambling disease concept;

10. - 11. ...

12. related medical and psychological disorders that may require referral; and

13. skills in the performance domains of prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1077 (December 1989), amended LR 19:634 (May 1993), amended LR 25:1243 (July 1999), LR 28:

§711. Lapsed Certificate; Reinstatement; Surrender

A. Lapsed Certificate. Certification is lapsed immediately upon passing 90 days after the expiration date. Lapsed certificates shall be surrendered to the board for non-payment of fees, or reinstated, upon meeting the reinstatement requirements. A lapsed certificate terminates immediately the status of a registered counselor supervisor unless and until reinstatement is granted by the board.

B. - B.4. ...

5. new issue and expiration dates are set by the board and the counselor's or specialist's file is annotated to show the lapsed period.

C. Non-Payment of Fees; Surrender of Certificate

1. A former board certified substance abuse counselor, board certified compulsive gambling counselor or board certified prevention specialist who does not renew his certificate shall surrender the certificate by returning it to the office of the board.

2. A former board certified substance abuse counselor, board certified compulsive gambling counselor, or board certified prevention specialist who desires to exercise the option of the grace period to reactivate the certificate or to apply for reinstatement within one year may retain the certificate provided an acknowledgment is made in writing that the certificate is not valid during the period in which it is inactive or lapsed.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1077 (December 1989), amended LR 19:634 (May 1993), LR 25:1243 (July 1999), LR 28:

Chapter 9. Disciplinary Procedures

§901. Causes for Administrative Action

A. The Board, after due notice and hearing as set forth herein and the Administrative Procedure Act, R.S. 49:950 et seq., may deny, revoke or suspend any certification issued or applied for, assess an administrative fee not to exceed \$500 per violation, or otherwise discipline a certificate holder, counselor or prevention specialist in training, or applicant on a finding that the person has violated the Substance Abuse Counselor Certification Act, any of the rules and regulations promulgated by the board, the Code of Ethics, or prior final

decisions and/or consent orders involving the certificate holder, counselor or prevention specialist in training, or applicant. Sometimes hereinafter in this Chapter, where the context allows, a certificate holder, counselor or prevention specialist in training, or applicant may be referred to as "person."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:634 (May 1993), amended LR 25:1244 (July 1999), LR 28:

§903. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. 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.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Substance Abuse Counselor Certification Act, the rules and regulations of the board, the Code of Ethics, or prior Final Decisions and/or Consent Orders involving the certificate holder, counselor or prevention specialist in training, or applicant and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:635 (May 1993), LR 28:

§905. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential and shall be sent to the board office. The investigating board member, with benefit of counsel, shall decide to investigate the charges or deny the charges. If the charges are denied, a letter of denial is prepared and forwarded to the complainant and the person accused of wrongdoing. If the investigating board member decides to investigate, the person shall be notified that allegations have been made that he may have committed a breach of statute, rule and regulation, the Code of Ethics, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. The response is to be made to the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, and other pertinent information, if available, is

reviewed, a determination by the investigating board member, with benefit of counsel, will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate the industry, the board through its investigating board member, may issue subpoenas to secure evidence of alleged violations of the Substance Abuse Counselor Certification Act, any of the rules and regulations promulgated by the Board, the Code of Ethics, or prior final decisions and/or consent orders involving the certificate holder, counselor or prevention specialist in training, or applicant.

D. "Counsel" referenced in this Chapter shall mean the board's general counsel who will be assisting in the investigation and prosecution of an administrative action. Said counsel shall not provide any legal advice or act as legal counsel to the board or its members, other than the investigating board member, regarding a pending administrative action during the investigation, prosecution and resolution of such disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:635 (May 1993), amended LR 25:1244 (July 1999), LR 28:

§907. Informal Disposition of Complaints

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing.

B. The following types of informal dispositions may be utilized:

1. Disposition by Correspondence

a. For complaints less serious, the investigating board member may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be closed.

b. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The investigating board member may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out at the conference may later be used in a formal hearing. Board members, other than the investigating board member, may not be involved in informal conferences.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the Board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:635 (May 1993), LR 28:

§909. Formal Hearing

A. The board has the authority, granted by R.S. 37:3371 et seq., to bring administrative proceedings against persons to whom it has issued a certification, counselor or prevention specialist in training status, or any applicant. The person 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. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows:

1. The board received a complaint alleging that a person has acted in violation of the Substance Abuse Counselor Certification Act, the rules and regulations of the board, or the Code of Ethics . Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the investigating board member or board attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than the investigating board member, may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the board's correspondence concerning the complaint;
- iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary; or
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A sworn complaint is filed, charging the violation of one or more of the provisions of the Substance Abuse Counselor Certification Act, the rules and regulations promulgated thereto, the Code of Ethics, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least 30 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 to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to ten days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the

issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

i. a subpoena requiring a person to appear and give testimony; and

ii. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board 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.

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. 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)

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary; and/or

vi. other items or things allowed into evidence by the Louisiana Evidence Code or applicable statutory law or jurisprudence.

d. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows:

a. The board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take.

b. The person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The board's representative presents the case against the person.

d. The person, or his attorney, cross-examines.

e. The person presents evidence.

f. The board's representative cross-examines.

g. The board's representative rebuts the person's evidence.

h. Both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. 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 record of the proceeding.

11.a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

ii. all documents and/or other materials accepted as evidence at the hearing;

iii. statements of matters officially noticed;

iv. notices required by the statutes or rules; including notice of the hearing;

v. affidavits of service or receipts for mailing or process or other evidence of service;

vi. stipulations, settlement agreements or consent orders, if any;

vii. records of matters agreed upon at a prehearing conference;

viii. reports filed by the hearing officer, if one is used;

ix. orders of the board and its final decision;

x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

xi. a transcript of the proceedings, if one has been made, or an audio or stenographic record.

b. 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.

12.a. The decision of the board shall be reached according to the following process:

i. determine the facts at issue on the basis of the evidence submitted at the hearing;

ii. determine whether the facts in the case support the charges brought against the person; and

iii. determine whether charges brought are in violation of the Substance Abuse Counselor Certification Act, rules and regulations of the board, and/or the Code of Ethics.

b. Deliberation

i. The board will deliberate in closed session.

ii. The board will vote on each charge as to whether the charge has been supported by the evidence. The standard will be "preponderance of the evidence."

iii. After considering each charge, the board will vote on a resolution to dismiss the charges, deny, revoke or

suspend any certification issued or applied for, access an administrative fee not to exceed \$500 per violation, or otherwise discipline a person or applicant. An affirmative vote of a majority of the quorum of the board shall be needed to deny, revoke, or suspend any certification issued or applied for, or counselor or prevention specialist in training status, in accordance with the provisions of this Chapter, access an administrative fee not to exceed \$500 per violation, or otherwise discipline a person or applicant. The investigating board member shall not be involved in or present during deliberation, nor shall he be included in the quorum or allowed to vote on the outcome of the proceeding.

iv. In addition to any sanction and/or administrative fees assessed by the board against the person, the board may assess all costs incurred in connection with the proceedings including, but not limited to, investigation, court reporting, attorney fees and court costs.

c. Sanctions and/or administrative fees assessed against the person who is party to the proceeding are based upon findings of fact and conclusions of law determined as a result of the hearing, and will be issued by the board in accordance with applicable statutory authority. The party is notified by mail of the final decision of the board.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a stay of execution of a sanction for a period of time against an applicant or holder of a certificate. Such order, without a stay of execution, shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all persons of any action taken against him and may make public its orders and judgment in such manner and form as allowed by law.

14.a. The board 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 who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board 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 board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within 10 days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following:

i. the board's decision is clearly contrary to the law and evidence;

ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;

iii. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or

iv. it would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:635 (May 1993), LR 28:

§911. Consent Order

A. An order involving a type of disciplinary action may be made to the board by the investigating board member with the consent of the person. To be accepted, a consent order requires formal consent of a majority of the quorum of the board. Such quorum does not include the investigating board member. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. A proposed consent order may be rejected by the board in which event a formal hearing will occur. The consent order, if accepted by the board, is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:

§913. Withdrawal of A Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the investigating board member judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:

§915. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the Board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the denial, revocation or suspension of his certification, counselor or prevention specialist in training status, or application, assessment of an administrative fee not to exceed \$500, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:

§917. Judicial Review of Adjudication

A. Any person whose certification, counselor or prevention specialist in training status, or application, has been denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within 30 days after the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:

§919. Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:

§921. Emergency Action

A. If an affirmative vote of a majority of the quorum of the board called for a special meeting finds that public health, safety and welfare requires emergency action and incorporates a finding to that effect in its order, a summary suspension of a certificate or registration, or counselor or prevention specialist in training status, may be ordered pending proceedings for disciplinary action. Such proceedings shall be promptly instituted and a formal hearing held, after due notice, within 10 calendar days of the issuance of the order or summary suspension. The formal hearing referenced herein shall be conducted pursuant to the procedure established in §909 regarding formal hearings, less and except any procedures or time limits inconsistent with the emergency action. Thereafter, the person aggrieved by a decision of the board may seek judicial review and appeal pursuant to §§917 and 919.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:

§923. Reinstatement of Suspended or Revoked Certification

A. Any person whose certification, or counselor or prevention specialist in training status, is suspended or revoked may, at the discretion of the board, be re-certified or reinstated at any time without an examination by majority vote of the board on written application made to the board showing cause justifying re-certification or reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 28:

Chapter 11. Declaratory Statements

§1101. Procedure

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Substance Abuse Counselor Certification Act, R.S. 37:3371 et seq., the rules and regulations promulgated by the board and/or the Code of Ethics.

B. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

1. the name and address of the petitioner;
2. specific reference to the statute, rule and regulation, or the Code of Ethics; and
3. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or provision of the Code of Ethics by its potential application to him in which he is uncertain of its effect.

C. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

D. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1074 (December 1989), amended LR 19:638 (May 1993), LR 25:1245 (July 1999), LR 28:

§1103. Filing a Complaint

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:635 (May 1993), LR 25:1244 (July 1999), repealed LR 28:

§1105. Investigation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:636 (May 1993), LR 25:1244 (July 1999), repealed LR 28:

§1107. Resolution

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:635 (May 1993), repealed LR 28:

Chapter 13. Impaired Professionals Program

§1301. Program

A. The board shall develop policies and procedures for the operation of an impaired professional program which shall include provision for the identification and rehabilitation of certificate holders, counselors in training and prevention specialists in training whose quality of service is impaired or thought to be impaired due to mental or physical conditions.

AUTHORITY NOTE: Promulgated in accordance with LSA R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:636 (May 1993), LR 28:

§1303. Identification

A. Any report of impairment shall be forwarded to the impaired professional program for review and recommendation. The board shall investigate any individual who holds a certificate or training status issued by this board whose quality of service is impaired or thought to be impaired due to mental or physical conditions.

B. Should the board have reasonable cause to believe that the fitness and ability of a certificate holder, counselor in training or prevention specialist in training is affected by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process and/or excessive use or abuse of drugs including alcohol, a thorough examination may be ordered.

C. The board may appoint or designate an examining agent which may be comprised of Board Certified Substance Abuse Counselors, Board Certified Compulsive Gambling Counselors, Board Certified Prevention Specialists, physicians, and/or other health care professionals to conduct a physical and/or mental examination, including requiring a urine drug screen, blood, breath, and other tests as deemed appropriate and allowed by law; and to otherwise inquire into the fitness and ability of a certificate holder, counselor in training or prevention specialist in training to practice this profession with reasonable skill and safety to clients.

D. The order for examination shall be the certificate holder's, counselor in training's or prevention specialist in training's opportunity to defend against the alleged impairment and prove fitness to practice this profession. Refusal to follow the order for examination or failure to keep an appointment for examination or tests without just cause shall be de facto evidence of impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:636 (May 1993), amended LR 25:1244 (July 1999), LR 28:

§1305. Rehabilitation

A. The certificate holder, counselor in training or prevention specialist in training shall be financially responsible for the payment of and obtaining an opinion and treatment plan from a qualified addictionist approved by the board.

B. The examining agent shall submit advisory reports and recommendations to the board. Priority shall be given to intervention, treatment, rehabilitation and monitoring recommendations if impairment is suspected or confirmed.

C. Voluntary surrender of certification or training status shall be accompanied by agreement to satisfy all conditions set by the board.

D. A formal hearing for suspension or revocation of certification or training status shall be the last resort.

E. The board may enter into a consent order with an impaired professional in lieu of decertification or termination of training status.

F. The impaired professional program shall supervise treatment, rehabilitation, and monitoring activities as required by the board and/or specified in any consent order. The certificate holder, counselor in training or prevention specialist in training shall be obligated to provide the board with documentation of successful completion of the treatment plan upon request. Failure to abide by these requirements and/or specifications shall result in a formal hearing for revocation of certification or training status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:636 (May 1993), LR 28:

Chapter 15. Code of Ethics

§1501. Professional Representation

A. A counselor or specialist shall not misrepresent any professional qualifications or associations.

B. A counselor or specialist shall not misrepresent any agency or organization by presenting it as having attributes which it does not possess.

C. A counselor or specialist shall not make claims about the efficacy of any service that go beyond those which the counselor or specialist would be willing to subject to professional scrutiny through publishing the results and claims in a professional journal.

D. A counselor or specialist shall not encourage or, within the counselor's or specialist's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the counselor or specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December 1989), amended LR 19:637 (May 1993), LR 28:

§1503. Relationships with Clients

A. A counselor or specialist shall make known to a prospective client the important aspects of the professional relationship including fees and arrangements for payment which might affect the client's decision to enter into the relationship.

B. A counselor shall inform the client of the purposes, goals, techniques, rules of procedure, and limitations that may affect the relationship at or before the time that the professional services are rendered.

C. A counselor shall provide counseling services only in the context of a professional relationship and not by means of newspaper or magazine articles, radio or television programs, mail or means of a similar nature.

D. No commission or rebate or any other form of remuneration shall be given or received by a counselor or specialist for the referral of clients for professional services.

E. A counselor or specialist shall not use relationships with clients to promote, for personal gain or the profit of an agency, commercial enterprises of any kind.

F. A counselor or specialist shall not, under normal circumstances, be involved in the counseling of or providing of prevention services to family members, intimate friends, close associates, or others whose welfare might be jeopardized by such a dual relationship.

G. A counselor shall not, under normal circumstances, offer professional services to a person concurrently receiving counseling or prevention assistance from another professional except with knowledge of the other professional.

H. A counselor or specialist shall take reasonable personal action to inform responsible authorities and appropriate individuals in cases where a client's condition indicates a clear and imminent danger to the client or others.

I. In group counseling or prevention settings, the counselor or specialist shall take reasonable precautions to protect individuals from physical and/or emotional trauma resulting from interaction within the group.

J. A counselor or specialist shall not engage in activities that seek to meet the counselor's or specialist's personal needs at the expense of a client.

K. A counselor or specialist shall not engage in sexual intimacies with any client.

L. A counselor or specialist shall terminate a professional relationship when it is reasonably clear that the client is not benefitting from it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December 1989), amended LR 19:637 (May 1993), LR 28:

§1505. Relationships with the Board

A. Irrespective of any training other than training in counseling or prevention which a person may have completed, or any other certification which a person may possess, or any other professional title or label which a person may claim, any person certified as a substance abuse counselor, compulsive gambling counselor or prevention specialist is bound by the provisions of the Substance Abuse Counselor Certification Act and the rules and regulations of the Board in rendering counseling or prevention services.

B. A counselor, specialist, counselor in training or prevention specialist in training shall have the responsibility of reporting alleged misrepresentations or violations of board rules to the board.

C. A counselor, specialist, counselor in training or prevention specialist in training shall keep his board file updated by notifying the board of changes of address, telephone number and employment.

D. The board may ask any applicant or candidate for certification or re-certification as a counselor, specialist, or specialty designation whose file contains negative references of substance abuse to come before the board for an interview before the certification or specialty designation process may proceed.

E. The board shall consider the failure of a counselor or specialist to respond to a request for information or other correspondence as unprofessional conduct and grounds for instituting disciplinary proceedings.

F. A counselor or specialist must participate in continuing professional education programs as required and set forth in these rules.

G. Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1080 (December 1989), amended LR 19:637 (May 1993), amended LR 25:1244 (July 1999), LR 28:

§1507. Advertising and Announcements

A. Information used by a counselor or specialist in any advertisement or announcement of services shall not contain information which is false, inaccurate, misleading, partial, out of context, or deceptive.

B. The board imposes no restrictions on advertising by a counselor or specialist with regard to the use of any medium, the counselor's or specialist's personal appearance or the use of his personal voice, the size or duration of an advertisement, or the use of a trade name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse

Counselors, LR 15:1080 (December 1989), amended LR 19:637 (May 1993), LR 28:

§1509. Affirmation

A. Every BCSAC, BCCGC and BCPS must agree to affirm:

1. that his primary goal as a BCSAC or BCCGC is recovery for client and family of substance or gambling abuse; and his primary goal as a BCPS is for prevention of substance abuse.

2. - 8. ...

9. that I shall respect the rights and views of other counselors, specialists and professionals;

10. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1080 (December 1989), amended LR 19:638 (May 1993), amended LR 25:1245 (July 1999), LR 28:

§1511. Confidentiality

A. No substance abuse counselor, gambling counselor, prevention specialist, counselor in training or prevention specialist in training may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services to those persons except:

1. ...

2. when the person is a minor under the age of 18 and the information acquired by the substance abuse counselor, compulsive gambling counselor, prevention specialist, counselor in training or prevention specialist in training indicates that the child was the victim or subject of a crime, then the substance abuse counselor, compulsive gambling counselor, prevention specialist, counselor in training or prevention specialist in training may be required to testify fully in relation thereto upon any examination, trial, or other proceeding in which the commission of such crime is a subject of inquiry; or

3. ...

4. when the person waives the privilege by bringing charges before the board against the substance abuse counselor, compulsive gambling counselor, prevention specialist, counselor in training or prevention specialist in training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December 1989), amended LR 19:638 (May 1993), amended LR 25:1245 (July 1999), LR 28:

Chapter 17. Registration and Board Approved Programs

§1701. Counselor in Training or Prevention Specialist in Training

A. A person who is in the process of obtaining the education, training, and experience required to meet the requirement for certification may register with the board as a counselor in training or prevention specialist in training, also known as CIT and PSIT respectively. The person must be 18 years of age and possess a high school diploma or equivalent to be eligible to apply for registration. Upon issuance of the registration as a CIT or PSIT, the person shall actively pursue certification as a counselor or prevention specialist respectively at all times.

B. The designation of counselor in training and prevention specialist in training shall be granted for a period beginning with approval of the request for CIT or PSIT status and extending to the nearest renewal date one year after approval, provided:

1. a personal data form supplying required information on identification, place of employment, training institution, and evidence of a supervision contract with a qualified professional supervisor is completed satisfactorily;

2. the qualified professional supervisor is registered with the board or provides documentation of his qualifications and commitment to provide direct supervision;

3. the training institution is registered with the board or provides a written statement of availability of suitable duties and satisfactory supervision both functionally and professionally;

4. a signed statement is supplied attesting to the registrant's intention to seek certification as a Board Certified Substance Abuse Counselor, Board Certified Compulsive Gambling Counselor, or Board Certified Prevention Specialist. This statement shall also attest to the registrant accepting responsibility for all actions, holding the LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC; and

5. the fee for CIT or PSIT registration is paid.

C. Registration as a counselor in training or prevention specialist in training shall be renewed annually for a maximum of five consecutive years after the initial one year period of registration provided:

1. the renewal form is completed and submitted prior to expiration of the current registration;

2. the person continues to be in an appropriate training environment and under qualified professional supervision;

3. the fee for annual renewal of CIT or PSIT registration is paid; and

4. the renewal form approved by the board referenced in this section shall include:

a. a written progress report by the qualified professional supervisor on education and training completed towards certification;

b. a written evaluation by the qualified professional supervisor on hours performed pursuant to the 12 core functions for a CIT or the six program domains for a PSIT;

c. a written evaluation by the qualified professional supervisor on the performance of the knowledge, skills and attitude functions related to counseling or prevention; and

d. a written training plan by the qualified professional supervisor for the upcoming year of registration.

D. During the period of registration, the CIT shall:

1. provide direct client care utilizing the core functions and the knowledge, skills and attitude (KSAs) of substance abuse counseling only under the direct supervision of facility employed registered counselor supervisor or qualified professional supervisor;

2. not identify nor represent himself as counselor;

3. not perform any duties of a counselor independently, without direct supervision of the facility employed registered counselor supervisor or qualified professional supervisor;

4. not identify himself as a consultant to any substance abuse facility;

5. must notify the board of changes in job, moves, supervisor, recovery status, legal status and/or intention of not pursuing certification as a counselor.

E. As an exception to the requirement of direct supervision, a CIT may perform counseling functions when the registered counselor supervisor or qualified professional supervisor is on duty, or on-call and available for immediate assistance, if needed, and who have documented evidence to the satisfaction of the board of the following:

1. a minimum of 40 hours of training (including orientation, the 12 core functions and the knowledge, skills and attitude (KSAs) of substance abuse counseling); and

2. a minimum of 120 hours of direct supervision by registered counselor supervisor or qualified professional supervisor.

F. Any person who chooses not to register as a counselor in training or prevention specialist in training shall be responsible to provide documentation that the rules and regulations of the board have been complied with at the time of application for certification or at any other time that a question to the contrary may be raised by any person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:638 (May 1993), amended LR 25:1245 (July 1999), LR 28:

§1703. Registered Counselor Supervisor or Qualified Professional Supervisor

A. - C.2. ...

3. have obtained at least 60 clock hours of education in supervision or management, with one semester credit hour being the equivalent of 15 clock hours.

D. - E.4. ...

F. A registered counselor supervisor shall be authorized to perform the following duties:

1. supervise substance abuse counselors;

2. direct supervision of a counselor in training or prevention specialist in training;

3. - 7. ...

G. A qualified professional supervisor, as defined in §105, who chooses not to register with the board as a registered counselor supervisor shall:

1. provide a statement of credentials and qualifications with each document which is presented to the board and at any time that a question as to supervision is raised;

2. provide direct client care utilizing the 12 core functions and knowledge, skills and attitude (KSAs) of the substance abuse counseling and/or specific functions related to that professional license;

3. serve as a resource person for other professionals counseling substance abuse clients;

4. attend and participate in care conferences, treatment planning activities, and discharge planning related to primary caseload and/or clients of professionals being supervised;

5. provide direct supervision of treatment and any in-training including, but not limited to, activities such as individual/group counseling, or educational presentations;

6. provide oversight and supervision of such activities as recreation, art/music, or vocational education to assure compliance with accepted standards of practice;

7. function as patient advocate in all treatment decisions affecting the client;

8. be designated as the clinical services supervisor unless other qualified professional supervisors are employed and available at the facility and/or actively supervise QPS if the program does not require a full-time supervisor;

9. assure that the facility adheres to rules and regulations regarding all substance abuse treatment including, but not limited to, group size, caseload and referrals; and

10. provide only those services, which are appropriate to his profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:638 (May 1993), amended LR 28:

§1705. Approved Training Institution

A. ...

B. Institutions which provide clinical treatment of substance abuse or compulsive gambling or offer substance abuse counseling, compulsive gambling counseling or prevention intervention services, have sufficient qualified clinical staff, and can offer supervised clinical positions as substance abuse counselors, compulsive gambling counselors, counselors in training and/or prevention specialists in training, may register with the board as an approved training institution, also known as ATI, offering clinical experience for persons wishing to apply to become candidates for board certification. An agency, corporation, organization, partnership, organized health care facility, or other autonomous organizational entity shall qualify as an institution for the purposes of this rule.

C. The designation of approved training institution is granted to the nearest renewal date one year after the request for ATI status is approved, provided:

1. a satisfactory application form is submitted;

2. the institution is licensed appropriately to provide substance abuse or compulsive gambling treatment or substance abuse counseling, compulsive gambling counseling, or prevention intervention services;

3. the institution provides a statement signed by an authorized officer of the institution to document the institution's desire to provide clinical training in substance abuse counseling, compulsive gambling counseling, or prevention and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the institution is independent of the board, that it will hold the board harmless, and that it will comply with the requirements of the board;

4. the institution provides statements documenting the appropriateness of their clinical treatment setting, the qualifications of its staff to provide daily clinical supervision and frequent direct supervision of trainees, and the planned duties and training program in which the trainees will be engaged. This statement must document that training, experience, and supervision in all 12 core functions or six performance domains will be provided;

5. - 6. ...

7. the institution agrees to an annual audit review of its clinical training programs for Substance Abuse Counselors, Compulsive Gambling Counselors, Counselors in Training and Prevention Specialists in Training and

continuous quality improvement program by a registered counselor supervisor, and audit or review of its records at any time requested by the Board;

8. ...

D. Registration as an approved training institution shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. the annual audit report of the institution's clinical training programs for Substance Abuse Counselors, Compulsive Gambling Counselors, Counselors in Training and Prevention Specialists in Training and continuous quality improvement program signed by a registered counselor supervisor is filed;

3. - 4. ...

E. An approved training institution shall be authorized to:

1. announce to the public and advertise the availability of its clinical training program;

2. employ counselors in training and prevention specialists in training; and

3. ...

F. Persons submitting application for certification which list experience from institutions which are not registered as an ATI must document that the institution where the experience was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution is approved as a clinical training institution for Substance Abuse Counselors, Compulsive Gambling Counselors, Counselors in Training and/or Prevention Specialists in Training by the certifying authority in the state where the institution is located;

2. the institution is approved as a clinical training institution for Substance Abuse Counselors, Compulsive Gambling Counselors, Counselors in Training and/or Prevention Specialists in Training by a certifying authority with which the board has a current agreement of reciprocity;

3. - 3.c. ...

d. that training, experience, and supervision in all 12 core functions or six performance domains was provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:639 (May, 1993); amended LR 28:

§1707. Approved Educational Provider

A. ...

B. Organizations who desire to provide continuing professional education in substance abuse counseling, compulsive gambling counseling, and prevention may register with the board as an approved educational provider, also known as AEP. Each educational offering is a form of learning experience and shall be known as a course for the purposes of this rule whether it was offered for academic credit, as a workshop, seminar, conference, or in any other acceptable format. In-service training conducted by and for an individual's own agency is not an acceptable educational offering format. An individual, partnership, corporation, association, organized health care system, educational institution, governmental agency, or any other autonomous entity shall qualify as an organization for the purposes of this rule.

C. - C.2. ...

3. the organization provides a statement, signed by an authorized officer of the organization, to document the organization's desire to provide continuing professional education in substance abuse counseling, compulsive gambling counseling and prevention and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the organization is independent of the board, that it will hold the board harmless, and that it will comply with the requirements of the board;

4. - 4.e. ...

5. the organization agrees to file a course report with the board within 30 days of completion for each course which shall contain:

a. - d. ...

e. a copy of the flier or brochure used to advertise the course to the public.

6. ...

a. the course description containing the educational objectives; course outline; instructional modalities; and relevance of the material, including relationship to the 12 core functions or six performance domains, theoretical content related to scientific knowledge of practicing in the field of substance abuse counseling, compulsive gambling counseling, or prevention; application of scientific knowledge in the field of substance abuse counseling, compulsive gambling counseling or prevention direct and/or indirect patient/client care, and which renewal education area or areas are addressed;

6.b. - 7. ...

8. the organization agrees to notify the board and each person who completed a course in a timely fashion if it is determined that a course did not comply with the standards of the board for substance abuse counselor, compulsive gambling counselor or prevention education. The organization shall also present its written policy on refunds and cancellation;

C.9 - F.1. ...

2. the organization documents the course description including the educational objectives, course outline, instructional modalities, relationship of the material to the 12 core functions or six performance domains, and which renewal education area or areas are addressed;

F.3 - G.2. ...

H. A trainee, counselor, or specialist who wishes educational credit from a source which has not been approved by this board shall document that the provider of such education meets standards which are equivalent to those of this Board. Equivalence may be demonstrated by:

1. the provider holding approval as a substance abuse, compulsive gambling or prevention education provider from the certifying authority in the state where the course was offered;

2. the provider holding approval as a substance abuse, compulsive gambling or prevention education provider from a certifying authority with which the board has a current agreement of reciprocity;

3. providing documentation of:

a. the course description including the educational objectives, course outline, instructional modalities, relationship of the material to the 12 core functions or six

performance domains, and which renewal education area or areas are addressed;

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:640, (May 1993), amended LR 28:

§1709. Approved Institution of Higher Education

A. ...

B. Institutions which grant formal college credit for courses in substance abuse counseling, compulsive gambling counseling or prevention, have sufficient qualified faculty, and can offer supervised clinical practicum or internship may register with the board as an approved institution of higher education, also known as AIHE.

C. - C.2. ...

3. the institution provides a statement, signed by an authorized officer of the institution, to document the institution's desire to provide substance abuse counseling, compulsive gambling counseling or prevention education and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the institution is independent of the board, that it will hold the board harmless, and that it will comply with the requirements of the board;

4. the institution provides a statement documenting the appropriateness of their curriculum, the qualifications of the faculty to teach such courses, and the policy on practicum and internship courses. This statement must document that education, training, experience, and supervision when appropriate in all 12 core functions or six performance domains will be provided;

5. ...

6. the institution agrees to provide for ongoing consultation from a Registered Counselor Supervisor or submit the credentials and qualifications of the qualified professional supervisor who will provide ongoing consultation relative to the quality and content of its substance abuse counseling, compulsive gambling counseling or prevention curriculum;

7. the institution agrees to an annual audit review of its substance abuse counseling, compulsive gambling, or prevention curriculum and continuous quality improvement program by a registered counselor supervisor, and an audit or review of its records at any time by the board.

C.8 - D.1. ...

2. the annual audit report of the institution's substance abuse counseling, compulsive gambling counseling, and prevention curriculum and continuous quality improvement program, signed by a registered counselor supervisor, is filed with the board;

3. - 4. ...

E. An approved institution of higher education shall be authorized to:

1. announce to the public and advertise the availability of its substance abuse counseling, compulsive gambling counseling or prevention curriculum;

2. offer practicum or internship courses in substance abuse counseling, compulsive gambling counseling or prevention for credit;

3. ...

F. Persons submitting application for certification which list education from institutions which are not registered as an AIHE shall document that the educational institution where the education was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution holding approval as a higher education provider of substance abuse counseling, compulsive gambling counseling or prevention education from the certifying authority in the state where the institution is located;

2. the institution holding approval as a higher education provider of substance abuse counseling, compulsive gambling counseling, or prevention education from a certifying authority with which the board has a current agreement of reciprocity;

3. - 3.d. ...

e. that education, training, experience, and supervision when appropriate in all 12 core functions or six performance domains was provided.

G. Persons submitting application for certification which claim more than 18 semester hour equivalents must provide documentation demonstrating that a minimum of 12 semester hours of credit were not reasonably available from an AIHE. The board in its discretion may grant additional semester hour equivalents for cases of documented hardship at the rate of 15 clock hours of AEP education per one semester hour of AIHE credit provided a written request for waiver is submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 19:641, (May 1993), amended LR 28:

Chapter 19. Miscellaneous

§1901. Injunction

A. The board may bring an action to enjoin any person from practicing as a certificate holder, or counselor or prevention specialist in training, without current authority from the board.

B. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provision of these rules and regulations.

C. If the court finds that the person is violating, or is threatening to violate, this Chapter it shall enter an injunction restraining him from such unlawful acts.

D. In a suit for an injunction, the board through its chairman, may demand of the defendant a penalty of not less than \$100 nor more than \$1,000, and attorney's fees besides the costs of court. The judgment for penalty, attorney's fees, and costs may be rendered in the same judgment in which the injunction is made absolute.

E. The successful maintenance of an action based on any one of the remedies set forth in this Rule shall in no way prejudice the prosecution of an action based on any other of the remedies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1078 (December 1989), amended LR 19:642 (May 1993), LR 28:

§1903. Persons and Practices Not Affected

A. ...

B. Nothing in these rules and regulations shall be construed as prohibiting other licensed professionals, including members of the clergy and Christian Science practitioners, from the delivery of medical, psychotherapeutic, counseling, social work, psychological, or educational services to substance abusers, compulsive gamblers and their families.

C. Nothing in these rules and regulations shall be construed as prohibiting the activities of any person who is registered as a counselor in training or prevention specialist in training by the board and who is employed or supervised by a qualified professional supervisor, while carrying out specific tasks under professional supervision. The supervisee shall not represent himself to the public as a substance abuse counselor, compulsive gambling counselor, or prevention specialist.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December, 1989); amended LR 19:642, (May, 1993); LR 28:

§1905. Prohibited Activities

A. No person shall hold himself out as a substance abuse counselor, compulsive gambling counselor, or prevention specialist unless he has been certified as such under the provisions of the Substance Abuse Counselor Certification Act and the board's Rules.

B. No person shall hold himself out as a counselor in training or prevention specialist in training unless he has been registered as such under the provisions of the Substance Abuse Counselor Certification Act and the Board's Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certification for Substance Abuse Counselors, LR 15:1079 (December 1989), amended LR 19:642 (May 1993), LR 28:

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on June 29, 2002, at 9 a.m. at the office of the Board of Certification for Substance Abuse Counselors, 4637 Jamestown Ave., Suite 2A, Baton Rouge, LA 70808. Please contact the Board office at (225) 927-7600 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed Rules may be directed to this address and made to the attention of Ellen Calvert, Chairman. Such comments should be submitted no later than the close of business at 5 p.m. on June 21, 2002.

Ellen R. Calvert
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Certification; Practice; Organization; Fees; Examination; Continuing Education; Impaired Professionals Program; Ethics; Registrations; Board Approved Programs; Investigations and Disciplinary Procedures; Supervision and Miscellaneous Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time implementation cost in FY 02-03 of \$7,330 which includes the cost of promulgating the rules (\$2,080), legal fees (\$4,500), web site update (\$180), staff time (\$400), postage (\$60), and forms (\$120). The cost will be absorbed within the budget of the LBSCSAC. There will be no impact to other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Additional revenues to be collected by the board are forecasted to be as follows: \$33,070 in FY 02-03, \$58,595 in FY 03-04, and \$45,395 in FY 04-05. There will be no impact to other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The increase in fees as summarized in estimated effect on revenue collection and below do not exceed the "cap" established in the LA R.S. 37:3377, as enacted by the State Legislature.

Additional cost for directly affected persons (BCSACs, BCCGCs, and BCPSs) should be as follows: Application \$50, Initial Certification \$50, Certification by Reciprocity \$50, Renewal of Certification \$50, Late fee for Renewal of Certification \$50, and Reinstatement of Certification, \$50.

Additional cost for directly affected persons (CITs and PSITs) should be as follows: Registration \$50, Renewal of Registration \$50, and Late fee for Renewal of Registration \$100.00.

Additional cost for Board approved programs (RCSs, ATIs, AEPs, and AIHEs) should be as follows: Registration as RCS \$75, Renewal of Registration as RCS \$100, Renewal of Registration as ATI \$50, Registration as AEP \$100, Registration for AEP Single Course \$30, Renewal of Registration as AEP \$125, Registration as AIHE \$100, Renewal of Registration as AIHE \$125, and Late Fee for Renewal of Any Registration \$100.

The impaired professional program is to establish a uniform application of the program by rule so as to protect the public and assist the certificate holder. There are estimated costs to the directly affected person, and possibly economic benefit to non-governmental groups conducting substance abuse programs at the cost of the participant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact of the amendments on competition and employment in the public and private sectors other than broadening the categories of educational requirements for applicants for certification which mirrors the amendment to the Practice Act in the 2001 Regular Legislative Session. Any impact is anticipated to be minimal and will be outweighed by the benefit of an improvement to the quality of services provided to the recipients of such services.

Additionally, should the increase in fees not go into effect, every BCSAC, BCCGC, and BCPS in Louisiana will be adversely affected as the Board will not have sufficient funds to operate. Such increase in fees do not exceed the "cap" established in the LA R.S. 37:3377, as enacted by the State Legislature.

Frances D. Webb
Administrative Assistant
0205#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

General Provisions; Dentists; Fees and Costs; Dental Assistants; Dental Hygienists; Transmission Prevention of Hepatitis B and C Virus, and HIV; Licensure Examinations; and Criminal History Records Information (LAC 46:XXXIII.101, 110, 113, 118, 122, 124, 301, 306, 316, 318, 411, 415, 419, 504, 508, 706, 710, 714, 1207, 1711, 1713, and Chapter 18)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760.(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.110, 122, 124, 301, 306, 316, 318, 411, 415, 419, 504, 706, 710, 1207, and 1711, adopt §§113, 508, 1713, and Chapter 18 "Criminal History Records Information," and repeal §§101, 118, 714. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§101. Requirements for Examination Applicants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 2:186 (June 1976), repealed LR 28:

§110. Licensees Suffering Impairment Due to Alcohol or Substance Abuse

A. After considerable study and review of other state practices in regards to evaluation, diagnosis, prognosis, and treatment of licensees suffering impairment through chemical or drug abuse, the board shall hereby abide by the following procedures.

1. Repealed.

A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(2)and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998), amended LR 28:

§113. Public Comment at Board Meetings

A. A public comment period shall be held at or near the beginning of each board meeting, or any other time deemed appropriate by the board president. Persons desiring to present public comments shall notify the board or its

executive director prior to the beginning of the meeting. However, to assure that an opportunity is afforded all persons who desire to make public comments, the board president shall inquire at the beginning of the meeting if there are additional persons who wish to comment. The board president 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, if any, he represents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5.D and R.S. 37:760.(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§118. Guidelines for Granting Return to Active Status Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), repealed LR 28:

§122. Scopes of Practice

A. The board has reviewed and approved the "Standards for Advanced Specialty Education Programs" set forth by the Commission on Dental Accreditation of the American Dental Association and approves of the following specialties:

1. dental public health;
2. endodontics;
3. oral and maxillofacial surgery;
4. oral pathology;
5. orthodontic and facial orthopedics;
6. pediatric dentistry
7. periodontics;
8. prosthodontics; and
9. oral and maxillofacial radiology.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR:28:

§124. Guidelines for Returning to Active Status

A. Section 124 is intended to provide guidelines to enable the board to provide evaluation and remediation to dentists and dental hygienists who have not actively practiced their profession for a sufficient length of time for any reason which would justify various levels of remediation to assure the board that the dentist or dental hygienist is sufficiently qualified to again practice on the public. This Section applies whether or not a license has been inactivated.

B. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:511 (March 1999), amended LR:28:

§301. Advertising and Soliciting by Dentists

A. - C.8. ...

D. Definitions

Advertisement and *Advertising* Any statement, oral or written, disseminated to or displayed before the public or

any portion thereof with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services. The provisions of this Section shall apply to *advertising* of any nature regardless of whether it is in the form of paid advertising.

Dental Public Health Cthe science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs, as well as the prevention and control of dental diseases on a community basis. Implicit in this definition is the requirement that the specialist have broad knowledge and skills in public health administration, research methodology, the prevention and control of oral diseases, the delivery and financing of oral health care, and the identification and development of resources to accomplish health goals.

Endodontics Cthe branch of dentistry that is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular condition.

Oral and Maxillofacial Radiology Cthe specialty of dentistry and the discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy, in a manner that minimizes risk to the patient, operator and the public, that are used for the diagnosis and management of diseases, disorders and conditions of the oral and maxillofacial region.

Oral and Maxillofacial Surgery Cthe specialty of dentistry which includes the diagnosis, surgical, and adjunctive treatment of diseases, injuries and defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

Oral Pathology Cthe specialty of dentistry and discipline of pathology which deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes and effect of these diseases. The practice of oral pathology includes research, diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations, and management of patients.

Orthodontics and Dentofacial Orthopedics Cthe area of dentistry concerned with the supervision, guidance, and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception, and treatment of all forms of malocclusion of the teeth and associated alterations of their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the

dentition and its supporting structures to attain and maintain optimum occlusal relations in physiological and aesthetic harmony among facial and cranial structures.

Pediatric Dentistry Can age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

Periodontics Cthat specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function and esthetics of those structures and tissues.

Prosthodontics Cthe branch of dentistry pertaining to the restoration and maintenance of oral function, comfort, appearance and health of the patient by the restoration of the natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissue with artificial substitutes.

E. - H. ...

I. Prohibition on Advertising Names of Persons Not Involved in Practice. Advertising which includes the name of a person who is neither actually involved in the practice of dentistry at the advertised location nor an owner of the practice being advertised is not permitted. However, to facilitate the smooth transition of a practice after its sale from one licensee to another, it is permissible to identify the previous owner in advertising by the new owner for a reasonable period of time not to exceed a period of twenty-four months. If a practice is being managed in transition following the death or disablement of a dentist, it is permissible to identify the deceased or disabled dentist in advertising for a period not to exceed twenty-four months following the death or disability of said dentist. This rule does not provide authority to use a previous owner's name in any advertising without first obtaining that licensee's or his legal representative's written permission to do so.

J. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 28:

§306. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 4. ...

5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the last 10 years;

6. - 20. ...

B. The applicant must also:

1. - 4. ...

5. provide satisfactory documentation that the initial licensing examination passed by the applicant included the use of live patients and that the overall examination was at

least equivalent to the licensing examination of the Louisiana State Board of Dentistry.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 28:

§316. Disclosure of Financial Interests by Referring Dental Health Care Provider

A. This rule is authorized and mandated by R.S. 37:1744 and R.S. 37:1745 and a violation of §316 will constitute a violation of either R.S. 37:776.A.(24) or R.S. 37:777.A.(18).

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8) and mandated by R.S. 37:1744.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1527 (November 1997), amended LR 25:512 (March 1999), LR 28:

§318. Patient Records

A. - B.1.c. ...

2. A handling charge not to exceed \$7.50 and actual postage may also be charged.

3. ...

C. Computerized records are acceptable provided they meet the following requirements.

1. Information entered must not be alterable and must include the date of data entry.

2. The system must not permit placement of a date different from the actual date of data entry.

3. The software vendor certifies that the system meets these requirements.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760.(8) and R.S. 40:1299.96.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998) amended LR 28:

§411. Miscellaneous Fees and Costs

A. For providing the services indicated the following fees shall be payable in advance to the board.

1. - 8. ...

9. Bound copy of Dental Practice Act \$ 35

10. Unbound copy of Dental Practice Act \$ 25

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760.(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 19:207 (February 1993), LR 28:

§415. Licenses, Permits, and Examinations (Dentists)

A. For processing applications for licensure, permits, and examinations, the following non-refundable fees shall be payable in advance to the board.

1. Examination and licensing of dental applicant \$750

2. - 10. ...

11. Application and permitting for general or parenteral anesthesia permit \$400

12. Application and permitting for nitrous oxide permit \$ 50

13. Renewal of general sedation or parenteral anesthesia permit \$200

14. Renewal of nitrous oxide anesthesia permit \$ 50

15. Biennial application and permit for mobile or movable dental office \$400

16. Criminal history background check \$100

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760.(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:

§419. Licenses, Permits, and Examinations (Dental Hygienists)

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board.

1. - 7. ...

8. Examination and permitting of dental hygiene applicants for administration of local anesthesia \$ 50

9. Renewal fee for dental hygienists' administration of local anesthesia \$ 50

10. Criminal history background check \$100

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760.(8) and R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:

§504. Authorized Providers of Instruction for Expanded Duty Dental Assistant Courses

A. Louisiana State University School of Dentistry and University of Louisiana at Monroe School of Dental Hygiene; or

B. Louisiana State Schools of Allied Health Science including vocational technical schools in affiliation with Louisiana State University School of Dentistry and University of Louisiana Monroe School of Dental Hygiene;

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760.(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 25:510 (March 1999), LR 28:

§508. Dental Assistants Graduating from Dental Assisting Schools Approved by the Commission on Dental Accreditation

A. Since the inception of R.S. 37:751.A.(6) defining an expanded duty dental assistant as a graduate from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, many changes in technology and dental materials have taken place, and in the interest of the protection of the public those persons seeking expanded duty dental assistant status and who have graduated from CODA accredited schools, must comply with the following:

1. present satisfactory documentation from their dental assisting school evidencing training in all functions which expanded duty dental assistants are allowed to perform. If their training is inadequate, they must undergo remediation in a program approved by the board; or

2. complete a full expanded duty dental assistant program approved by the Louisiana State Board of Dentistry.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760.(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§706. Requirements of Applicants for Licensure by Credentials (Hygienists)

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. - 4. ...

5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the preceding ten years;

6. - 19. ...

B. The applicant must also:

1. - 2. ...

3. Repealed.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R. S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 28:

§710. Administration of Local Anesthesia for Dental Purposes

A. - D. ...

E. A dental hygienist who has been licensed and trained in a course equivalent to §710.B and C to administer local anesthesia in another state may qualify, at the discretion of the board, to take the examination by presenting written documentation of such licensure and training to the board and documentation of experience in the past two years and by gaining approval of the board through the interview process.

F. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 25:1476 (August 1999), LR 28:

§714. Administration of Local and/or Block Anesthesia by Dental Hygienists Licensed by Credentials

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1293 (July 1998), repealed LR 28:

Chapter 12. Transmission Prevention of Hepatitis B Virus, Hepatitis C Virus, and Human Immunodeficiency Virus

§1207. Self-Reporting

A. - D. ...

E. Aforementioned reporting forms will be provided to each licensee with his or her license and additionally with his or her biennial license renewal application, or upon request.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:743 (July 1992), amended LR 21:573 (June 1995), LR 28:

Chapter 17. Licensure Examinations

§1711. Examination of Dental Hygienists

A. ...

B. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. - 3. ...

4. has successfully completed the National Board Dental Hygiene Examination as administered by the American Dental Association.

C.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), LR 28:

§1713. Examination Application Deadlines

A. In order to qualify to sit for the Louisiana State Board of Dentistry clinical licensing examinations in dentistry, complete application forms and applicable fees must be received at the board office no later than 60 days prior to the first date of the examination. Dentists taking the re-make examination and hygienists taking the examination for the first time at the time that the remake examination is given must have their completed application and applicable fees in the board office no later than 30 days prior to the first date of the administration of the make up examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760.(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

Chapter 18. Criminal History Records Information

§1801. Scope of Chapter

A. The rules of this chapter govern the collection and use of criminal history records information in connection with applications for an initial license, renewal, or reinstatement of a license of a dentist or dental hygienist in conformity with R.S. 37:763.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§1803. Definitions

A. As used in this chapter, the following terms shall have the meanings specified.

Applicant Can an individual who has made application to the board for the issuance or reinstatement of any license, permit, certificate, or registration which the board is authorized by law to issue.

Board Cthe Louisiana State Board of Dentistry.

Bureau Cthe Louisiana Bureau of Criminal Identification and Information of the Office of State Police within the Department of Public Safety and Corrections.

Criminal History Record Information Cinformation collected by the bureau or the Federal Bureau of Investigation of the United States Department of Justice or an individual consisting of detentions, indictments, bills of information, or any formal criminal charges and any disposition arising therefrom, including sentencing, criminal

correctional supervision and release. *Criminal history record information* does not include information collected for intelligence or investigatory purposes nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

FBI the Federal Bureau of Investigation of the United States Department of Justice.

Licensure or License Any license, permit, certification, or registration which the board is authorized by law to issue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§1805. Criminal History Record Information Requirement

A. As a condition for eligibility for the issuance of an initial license or the reinstatement of any license, an applicant must submit to the board such number of full sets of fingerprints, other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information, in the form and manner prescribed in §1809.

B. The board will use the fingerprints to request and obtain criminal history record information relative to the applicant as provided in R.S. 37:763.1.

C. The application of an applicant who fails to comply with the requirements set forth in §1805.A shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§1807. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an acknowledgement and authorization by the applicant to any state or federal agency, including, but not limited to, the bureau and the FBI, to disclose and release to the board any and all state, national, or foreign criminal history record information; the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant for disclosure and release of such information and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. The submission of an application for licensure to the board shall constitute and operate as an acknowledgement and authorization by the applicant to the board's utilization of criminal history record information to determine his or her suitability and eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an applicant in the state of Louisiana for violation of any of the causes specified by R.S. 37:776 or R.S. 37:777, and the board's rules respecting any such health care provider as set forth in LAC 46:XXXIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§1809. Procedural Requirements

A. In conformity with the substantive requirements of §1805, an application for licensure, whether initial, by credential, or reinstatement to the board, shall be accompanied by each of the following:

1. two or such other number of fully completed fingerprint record cards, containing all identifiable information requested, as well as certified sets of fingerprints which have been affixed by a sheriff, police officer, or other law enforcement personnel;

2. a check in the amount of no less than \$100 in satisfaction of the fees and costs incurred by the board to process fingerprint cards and to request and to receive criminal history record information, as well as two money orders for the following amounts:

a. one in the amount of \$10 made payable to the bureau; and

b. one in the amount of \$24 made payable to the FBI.

B. Fingerprint cards and instructions pertaining thereto will be supplied by the board with an application. Such cards and instructions may also be obtained upon written request directed to the office of the board.

C. An applicant shall be responsible for any increase in the amounts specified in §1809.A.2, which may be assessed by any state or federal agency, including, but not limited to, the bureau and the FBI, or for the fees and costs which may be incurred by the board in requesting and obtaining criminal history record information. An applicant shall also be responsible for payment of any processing fees and costs resulting from a fingerprint card being rejected by any state or federal agency, including, but not limited to, the bureau and the FBI.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§1811. Falsification of Criminal Record Information

A. An applicant who denies the existence or extent of criminal history record information on an application, which is discovered by information, records, or documentation provided by the Bureau, FBI, or any other state, national, or foreign jurisdiction shall, in addition to the potential disqualification of licensure for any of the causes specified in §1807.B, be deemed to have provided false, misleading, or deceptive information, or false sworn information on an application for licensure, and to have engaged in unprofessional conduct, providing additional cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by an applicant in the State of Louisiana culpable of such violation, pursuant to R.S. 37:776.A.(3) or R.S. 37:777.A.(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§1813. Confidentiality of Criminal History Record Information

A. Criminal history record information obtained by the board pursuant to R.S. 37:763.1 and the rules of this Chapter, which is not already a matter of public record or to

which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency, provided, however, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

§1815. Exceptions to Criminal History Information Requirement

A. The criminal history record information requirements prescribed by this chapter shall not be applicable to a dentist or dental hygienist applicant who seeks:

1. a visiting dentist or dental hygienist temporary permit, issued in accordance with LAC 46:XXXIII.120.

B. The criminal history record information requirements prescribed by §§1801-1813 may be waived in such instances as the board, in its discretion, may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: General Provisions; Dentists; Fees and Costs; Dental Assistants; Dental Hygienists; Transmission Prevention of Hepatitis B and C, and HIV; Licensure Examinations; and Criminal History Records Information

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A cost of \$500 is estimated to implement these rule changes. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for previous rulemaking changes. It is anticipated that these rule changes will be sent to licensees during the summer of 2002.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a small effect on revenue collections by the Louisiana State Board of Dentistry in the amount of \$50,000, but no effect on other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated economic benefits to directly affected persons or non-governmental groups. However,

dentists may pass on to the public an increased fee of \$2.50 when patients seek a copy of their records.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0205#029

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing
and
Department of Public Safety and Corrections
Office of the Secretary**

Administration of Medications to Children
in Detention Facilities (LAC 22:I.Chapter 5)

Notice is hereby given, that the Louisiana State Board of Nursing (herein referred to as board) and the Department of Public Safety and Corrections (herein referred to as department), pursuant to the authority vested in the Board by R.S. 37:918(K), and 15:911 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., intend to promulgate rules to provide for procedures and training that must be in place before any staff member other than any registered nurse, licensed practical nurse or licensed medical physician can be required to administer medication to children in detention facilities and shelters; to provide for definitions; to provide for the establishment of guidelines for training and the administration of medication; to provide for the rights and responsibilities of employees assigned to detention facilities relative to the administration of medication; and to provide for related matters. The proposed rules are set forth below.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT
Chapter 5. Administration of Medications to
Children in Detention Facilities**

§501. Medication Administration

A. Medication shall be administered in a manner consistent with R.S. 15:911 relative to children as described herein.

B. The 2001 Louisiana Legislature authorized the Department of Public Safety and Corrections and the Louisiana State Board of Nursing to jointly promulgate rules which specifically establishes the procedure to be followed for the administration of medication at each detention facility by trained unlicensed juvenile detention center employees in accordance with Act 502 of the 2001 Regular Session. Training requirements shall be set forth in this part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§503. Definitions

A. Definitions as used in this Part:

Act C Act 502, H. B. No. 107, R.S. 15:911.

Administer or Administration—the giving of either an oral, pre-measured dose inhalant or topical ointment medication to a patient.

Adverse Effects—a harmful, unintended reaction to a drug administered at the prescribed normal dosage.

Assessed the Health Status—an assessment of the juvenile in the detention center by a licensed physician or registered nurse approved by the department to determine the current level of wellness/illness of the juvenile in accordance with the nursing process.

Authorized Prescriber—a person authorized in Louisiana or an adjacent state to prescribe medications.

Board—the Louisiana State Board of Nursing.

Child—a person under eighteen years of age who, prior to juvenile proceedings, has not been judicially emancipated under Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379 through 384.

Child Specific—pertains to a particular juvenile.

Child Specific Training—training provided by a qualified registered nurse or physician regarding juveniles to include variations from the usual manner in which a medication is administered and any potential side effects or reactions that should be watched for with any person receiving the medication.

Competence—the quality or condition of being legally qualified, eligible or admissible.

Conditions—that each of the following requirements of R.S. 15:911 have been met: rules have been jointly promulgated establishing procedures to be followed at each juvenile detention center for the administration of medication; medication not be administered to any child without an order from a person with prescriptive authority in the state of Louisiana or an adjacent state; an assessment of the juvenile's health status has been completed by either the registered nurse or physician and said assessment has determined that the medication can be safely administered by trained unlicensed personnel in the detention center; and the detention facility employees have received documented training and supervision by a registered nurse or physician.

Confidentiality—all information shall be treated as private and not for publication or disclosure without proper authorization.

Container (Includes Blister Pack) that Meets Acceptable Pharmaceutical Standards—the original container having the pharmacy's name, address and telephone number, the pharmacist's last name and initial, and the original label that contains the juvenile's name, prescription number if any, date, frequency, name of the medication, dosage, route and the name of the person who prescribed the medication

Controlled Substance—a drug regulated by federal law under the Controlled Substance Act of 1970.

Current Date—the last date that the prescription was filled.

Date—the date of the prescription, and when appropriate the refill.

Delegation—the process of assigning tasks to a qualified individual. Effective delegation includes the following guidelines: the identified task is clear and related authority specified; the task demands do not exceed the individuals' job description; and the method of supervision is established in advance.

Desired Effect—that the drug acts either to cure, relieve, prevent, or diagnose the disease in a manner for which it was prescribed.

Department—the Department of Public Safety and Corrections.

Detention Facility—any juvenile detention facility, shelter care facility, or other juvenile detention facility.

Disposal of Medication—the specific method of getting rid of medication, for example, according to Federal and State laws.

Documented—a written paper bearing the original, official, or legal form of something which can be used to furnish evidence of information. In medication administration, documented refers to the recording of the juvenile's name, time, medication, dose, route, date, person administering, and unusual observations and circumstances on the daily medication administration record.

Dosage—the amount of medication to be administered at one time.

Drug—any chemical compound that may be used on or administered to humans as an aid in the diagnosis, treatment, or prevention of disease or other abnormal conditions for the relief of pain or suffering or to control or improve any psychological or pathological condition.

Emergency Medication—the medication administered to save a life.

Error—the failure to do any of the following as ordered:

- a. administer a medication to a juvenile;
- b. administer medication within the time designated by the prescribing practitioner;
- c. administer the specific medication prescribed for a juvenile;
- d. administer the correct dosage of medication; administer medication by the proper route;
- e. administer the medication according to generally accepted standards of practice.

Exempt—to free from an obligation or duty required of others.

Frequency of the Medication—the number of times during a day that the medication is to be administered.

Guidelines—a statement of policy or procedure.

Individual Health Plan—the mechanism to assess, plan, implement, document and evaluate health care delivered to an individual juvenile.

Inhalant Medication—a drug that is introduced into the respiratory tract with inspired air.

Instructions for Medication—all of the information required to administer the medication safely.

Legal Standards—the Legal Standards of Nursing Practice as defined in the Louisiana Administrative Code, specifically LAC 46:XLVII.3901-3915.

Mastery—having full command of a subject and being capable of performing the skill independently.

Medication—any prescription or nonprescription drug.

Medication Order—the authorization to administer a medication to a juvenile by an authorized prescriber.

Monitoring—the visual observation of the juvenile following the administration of a medication to: ensure compliance; recording medication administration; notifying the authorized prescriber of any side effects or refusal to take the medicine.

Name on the Pharmacy Label Cthe name of the juvenile for whom the prescription was written, the authorized prescriber's name, and the name of the pharmacist filling the prescription.

Non-Prescription Medication Cover-the-counter preparations obtained without a prescription.

Observer Cthe detention facility employee designated to observe the juvenile for specific reactions as identified by the registered nurse or authorized prescriber.

Oral Medication Ca drug given either by mouth or by a gastrostomy tube.

Pharmacology Cthe science of drug properties, reactions and therapeutics.

Policy Cthe procedures for the administration of medication in juvenile detention centers that are set forth in this part.

Prescription Cthe written order from an authorized prescriber that provides clear instructions, including the name of the juvenile, prescription number, if any, date, frequency, name of medication, dosage, route, and the signature of the authorized prescriber.

Privacy Csecluded from sight or isolated from view of others; concealment.

PRN Cas circumstances may require.

Professional Staff Cthe registered nurse or physician employed or contracted by the juvenile detention center.

Protocol Can explicit detailed plan of action.

Qualified Detention Center Personnel Cunlicensed personnel who meet the criteria for entering the medication administration course as specified in the policy and who successfully complete both the written and the practical sections of the course examinations.

Qualified Registered Nurse or Physician Cthe registered nurse(s) or physician(s) who train unlicensed department employees to administer medications.

Require a Detention Center Employee to Administer Medication Cto allow or in any way coerce or encourage an employee to administer medication until the conditions of the Act are met.

Route Cthe prescription indicates that the medication, other than emergency medication, shall be administered by mouth or gastrostomy tube, by inhalation, or by topical application of an ointment, lotion, etc.

Storage of Medication Cthe appropriate specific method of handling for safe-keeping and efficacy in a locked space.

Supervision Cthe method of monitoring, coaching, and overseeing delegated tasks. Levels include: immediate, supervisor is physically present; direct, supervision is present and available at the site; indirect, supervisor is available in person or through electronic means.

Topical Ointment Ca medication applied to the surface of the body.

Unit Dose Cthe medication packaged by the pharmacy so that a single dose can be administered without measuring, breaking, or crushing.

Unlicensed Trained Personnel Ca detention facility employee who has successfully completed at least six hours of general and child specific training of the administration of medication course and periodic updates.

Witness Canother detention facility employee, who may or may not be trained to administer medication who has been

requested to be physically present during the administration of medication to the juvenile.

Written Guidelines Established by the Detention Center Cthe written procedures for the administration of medication to juveniles in detention centers meet the minimum requirements as set forth in this part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§505. Role of Governing Bodies

A. The Louisiana Legislature enacted R.S. 15:911, Act 502 of 2001.

1. The Nurse Practice Act, R.S. 37:911 et seq. as re-enacted and amended and the administrative rules implementing the Act serve as the legal standards for the practice of registered nurses. The Act creates the board which serves as an arm of the state government to protect the health and welfare of the citizens of the State as far as the practice of the registered nurse is concerned. The board regulates the practice of nurses by licensing qualified individuals as registered nurses. Further, the board investigates complaints relative to the practice of a registered nurse and provides information and direction relative to the legal practice of registered nurses.

2. The department has been directed to perform a variety of tasks related to of R.S. 15:911 including jointly promulgating the rules herein. The department's continuing role will include approval of doctors and registered nurses who are selected by the detention centers to conduct medical assessments and review prescriber's orders in order to determine when the administration of a medication to a particular child housed in a detention center can safely be delegated and performed by someone other than a licensed health professional.

3. The director of the juvenile detention center provides:

a. an appropriate environment and supplies for training unlicensed personnel to administer medications;

b. for collaboration with the registered nurse regarding the safe and appropriate storage of medications and access to the medications by trained unlicensed personnel relative to:

i. the storage of medications in a locked cabinet, closet, or drawer that is used only for the storage of medications;

ii. medications that must be refrigerated to be stored in locked box in the refrigerator;

iii. the counting and the keeping of accurate records on controlled substances on a daily basis;

iv. a double locked cabinet, box or drawer that is used only for the storage of controlled substances;

c. at least two detention facility employees who have the desire and the potential capability to complete successfully the training, to administer medication in a safe and competent manner;

d. administrative supervision for personnel administering medications and cooperates with the registered nurse or physician in the support, supervision, and evaluation of unlicensed trained personnel;

- e. relief from all other duties during the period that the unlicensed trained personnel is administering the medications;
- f. essential space, materials, equipment, and other requirements;
- g. annual in-service for unlicensed trained personnel to maintain and improve technical skills;
- h. a procedure for a witness to the medication procedure upon the unlicensed trained personnel's request;
- i. a procedure for the withdrawal of a witness upon written request;
- j. the maintenance of records documenting the administration of medication in an appropriate, confidential file.
- k. a plan to accommodate timely consultation between the trained unlicensed personnel and the registered nurse or physician regarding complications or problems not addressed in the juvenile's individual health plan;
- l. a plan to maintain drug security in the work site and on the person in accord with federal and state requirements;
- m. a plan for disposal of hazardous waste material in accord with federal guidelines;
- n. a record on each individual who successfully completes the unlicensed employee medication administration course. Records must include:
 - i. original skills check list scoring;
 - ii. a copy of the certificate indicating completion of the medication administration course;
 - iii. documentation of successful completion of the annual in-service and evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§507. Role/Functions of Unlicensed Trained Employees Administering Medications

A. Unlicensed trained employees assume responsibility and accountability for procedures as taught in the course for the administration of medications.

- 1. Authorized functions of unlicensed trained employees administering medication are to:
 - a. receive medication and verify that the label on the medication matches the order on file for the juvenile;
 - b. store the medication in the appropriate designated place;
 - c. administer oral medications, topical medications, or pre-measured inhalants as prescribed, unless otherwise indicated;
 - d. document and maintain on the juvenile's medical record:
 - i. receipt, storage, and disposal of medication;
 - ii. daily record of administration of medication to the juvenile, including the name, time, medication, dose, route, date, person administering the medication, and observation of desired and adverse effects or unusual occurrences;
 - iii. appropriate vital signs as indicated by the authorized prescriber and/or knowledge of the drug;
 - e. report immediately to the registered nurse, physician, or director of the juvenile detention center any discrepancy in the controlled substance drug count;

- f. request in writing the desire to have a witness to the procedure(s) or to withdraw the request for a witness;
- g. report immediately to the registered nurse, physician, or director of the juvenile detention center any unusual signs, symptoms, or occurrences;
- h. seek guidance from the registered nurse or physician when uncertain about medications.

2. Prohibited Functions of Unlicensed Trained Employees Regarding Medication Administration. The unlicensed trained employee shall not:

- a. administer medication by intramuscular, intravenous, or subcutaneous route (other than emergency medication which shall be delineated by the registered nurse in consultation with the physician and the juvenile);
- b. administer medication by the oral inhalant aerosol route without additional training, documented competency and supervision;
- c. receive or assume responsibility for accepting any written or oral and/or telephone orders from an authorized prescriber or any other person;
- d. alter medication dosage as delivered from the pharmacy;
- e. administer medication to any person other than the juveniles in the specific detention center for which training has occurred;
- f. administer any medication when there is indication that the medication has been inappropriately dispensed by the pharmacist or mishandled by other individuals;
- g. refuse once trained and all required conditions as defined in RS 15:911 are met, to administer medication without a written excuse from either the physician or the registered nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§509. Role of the Professional Staff in the Administration of Medications

A. Either a registered nurse with a current Louisiana license to practice in accordance with The Nurse Practice Act and the board's rules, specifically LAC 46:XLVII.3701-3703 and 3901-3915, or a physician shall be responsible for the delegation of medication administration by trained unlicensed detention center personnel. The duties of the professional staff regarding the administration of medication, include, but are not limited to the following:

- 1. the development of policies and procedures regarding administration of medication in detention centers, in consultation with the detention center's director;
- 2. supervise the implementation of medication administration policies to ensure the safety, health, and welfare of the juveniles in collaboration with the director and appropriate staff;
- 3. verify that the following conditions have been met before requiring unlicensed trained personnel to administer a medication to a juvenile:
 - a. that the health status of the juvenile has been assessed to determine that the administration of medication can be safely delegated.

b. only oral, pre-measured aerosols for inhalation, topical medications, and emergency medications are administered by unlicensed trained personnel.

c. child specific training has been provided;

d. except in life-threatening situation, unlicensed trained employees are not allowed to administer injectable medications;

e. controlled substance are administered only after authorization, and without additional training, supervision and documentation;

4. develops and implements procedures for:

a. handling, storing, and disposing of medication;

b. missing (stolen) medication;

5. train unlicensed personnel to administer medications. The six hours of general training includes at minimum:

a. legal role differentiation in medication delivery;

b. classification of medications and general purposes of each;

c. proper procedures for administration of medication;

d. handling, storage, and disposal of medications;

e. appropriate and correct record keeping;

f. appropriate actions when unusual circumstances occur;

g. appropriate use of resources;

6. child specific training includes at minimum:

a. desired and adverse effects of the medication;

b. recognition and response to an emergency;

c. review of the individual's medication;

d. observation of the juvenile;

e. unique individual requirements for administration of medication;

7. additional training may be required as follows:

a. handling and administering controlled substances;

b. measuring growth, taking vital signs, and other specific procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§511. Medication Administration Course

A. Each person accepted to participate in the medication administration course shall meet at minimum, the following qualifications:

1. be employed by the detention facility;

2. is eighteen years of age or older;

3. is free of any known contagious disease, such as Hepatitis B.

B. Individuals qualified to serve as instructors in the unlicensed employees medication administration course include a minimum of the following:

1. registered nurse with a minimum of one year clinical experience, preferably in detention centers or school settings;

2. other professional personnel may assist the registered nurse in training:

a. a pharmacist;

b. a physician;

c. other registered nurses with a minimum of one year clinical experience;

d. competent health care professionals have the ability to teach detention center personnel;

3. competent health care professionals have the ability to monitor untoward side effects of medication;

4. instructors have the knowledge of proper storage of medication in detention centers;

5. instructors have the ability to develop child specific training appropriate to juvenile's individual health plan and the trainee's abilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§513. Unlicensed Training Curriculum for Medication Administration

A. The six hours of general training for the medication administration course shall consist at minimum of the following information:

1. legal role differentiation in medication delivery;

2. classification of medications and general purposes of each;

3. proper procedures for administration of medication;

4. handling, storage, and disposal of medications;

5. appropriate and correct record keeping;

6. appropriate actions when emergencies and other unusual circumstances occur;

7. appropriate use of resources.

B. The course and skills demonstration shall be repeated only once upon the recommendation of the instructor.

C. A test score of 85 percent competency shall be required on the written test.

D. A pass/fail grade based on demonstrated competency on the skills checklist shall apply to the practical portion of the course. A registered nurse shall administer the examination. The applicant shall demonstrate competency in the following areas:

1. hand washing;

2. preparation and administration of:

a. oral medications including liquids;

b. topical medications;

3. documentation.

E. Child specific training includes at minimum:

1. reason for the medication;

2. desired and adverse effects of the individual's medication;

3. recognition and response to an emergency;

4. observation of the individual;

5. unique individual requirements for administration of medication;

6. additional training such as the following may be required:

a. administration of pre-measured dose inhalants;

b. handling and administering controlled substances;

c. measuring growth, taking vital signs and other specific procedures as required;

d. using emergency medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§515. Unlicensed Trained Employee Administering medication Certificate

A. A certificate of completion of the six hour general training course shall be issued by the detention facility to those employees who successfully complete the course within the specified time lines. The certificate shall include at least the following information:

1. name of the unlicensed employee;
2. date of completion of the training and renewal date;
3. name of the juvenile detention center;
4. number of course hours;
5. signature of the instructor and the director of the detention center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§517. Continuing Requirements

A. To ensure competency of unlicensed trained personnel the detention facility shall provide ongoing in-service training conducted by a qualified registered nurse or physician with the minimum qualifications defined above.

1. In-service training shall be provided to unlicensed trained employees relative to medication administration as needed, at least annually, through a review of the following areas:

- a. handling, storage, and disposal of medications and hazardous waste;
 - b. documentation and record keeping;
 - c. reporting and documenting medication errors;
 - d. response to and documentation of emergencies;
 - e. updates to drug changes and interactions;
 - f. detention facility policy and guidelines for administration of medication;
 - g. appropriate use of resources.
2. Evaluation includes at a minimum:
- a. annual competency testing using a skills check list and other evaluative criteria as indicated;
 - b. annual observation of child specific medication pass for competency;
 - c. review of child specific medication including precautions, desired and adverse effects.

3. An unlicensed employee trained to administer medication but has not worked directly with medication administration in a detention center for three months or more shall repeat the course curriculum and competency testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§519. Removal of an Unlicensed Trained Employee from Responsibilities to Administer Medication

A. The removal of an unlicensed trained employee to administer medication shall occur under any of the following circumstances:

1. falsifies record(s);
2. found guilty of abuse/neglect and/or misappropriation of a juvenile's medication or equipment;

3. fails to participate in annual in-service;
4. Performs unsatisfactorily with said performance documented and reported by the course instructor to the director. The course instructor has the option either to provide in-service training, to require that the medication administration course be repeated, or to relieve the employee of the responsibility to administer medication following due process procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

§521. Limitation

A. An unlicensed trained employee's authority to administer medications is not delegable.

B. There are no grandfathering provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, and Louisiana State Board of Nursing, LR 28:

§523. Exclusion

A. Nothing herein shall prohibit a registered nurse from administering medications in juvenile detention centers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:

Family Impact Statement

In accordance with the Administrative Procedures Act, LSA-R.S. 49:953(A)(1)(a)(viii) and LSA-R.S. 49:972, the Louisiana State Board of Nursing and the Department of Public Safety and Corrections hereby provide the Family Impact Statement.

Adoption of these rules by the Louisiana State Board of Nursing and the Department of Public Safety and Corrections regarding the administration of medications to children in detention facilities and shelters by staff other than registered nurses or licensed medical personnel will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendment.

All interested persons are invited to submit written comments on the proposed rules. Such comments must be submitted no later than June 20, 2002, at 4:30 p.m., to George White, Deputy Assistant Secretary of the Office of Youth Development, Department of Public Safety and Corrections, Post Office Box 94304 Capitol Station, Baton Rouge, Louisiana 70804-9304.

Barbara Morvant, MN, RN
Executive Director
and
Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Administration of Medications to
Children in Detention Facilities**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings. Act 502 of the 2001 Regular Session requires training of unlicensed employees so they can administer oral and topical medications to children in detention facilities. This training will be conducted by in-house medical personnel with existing funds.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated effects on revenue collections for the above stated reasons.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The rule does not impose any additional costs to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no anticipated impact on competition and employment.

Barbara L. Morvant
Executive Director
Robert B. Barbor
Executive Counsel
0205#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Physical Therapy Examiners**

Licensure; Continuing Education; Practice;
Supervision; Documentation; Substance
Abuse Recovery Program; and Fees
(LAC 46:LIV.Chapters 1, 3, and 5)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Physical Therapy Examiners (board), pursuant to the authority vested in the board by R.S. 2401.2.A.(3) intends to amend its existing rules as set forth below. The proposed amendments to the Rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIV. Physical Therapy Examiners

**Chapter 1. Physical Therapists and Physical
Therapists Assistants**

Subchapter C. Graduates of Foreign P.T. Schools

§115. Qualifications for Licensure

A. - A.1. ...

2. have successfully completed his education in physical therapy that is substantially equivalent to the requirements of physical therapists educated in accredited physical therapy programs in the United States as the board, upon evaluation of the applicants educational program by an

approved credentials evaluation service, deems sufficient, however, such substantially equivalent education shall be no less than a total of 120 semester hour credits which includes a minimum of 69 semester hour credits for professional education and a minimum of 42 semester hours of general education as established in a course work evaluation tool approved by the board;

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1444 (July 2000), LR 28:

**Subchapter H. License and Permit Issuance,
Termination, Renewal and Reinstatement**

§167. Reinstatement of License

A. ...

B. A licensee who fails to timely renew his license, but applies by reinstatement on or before January 31, shall be required to complete the following:

1. the renewal application;
2. pay the renewal fee and the reinstatement fee; and
3. provide a written explanation of his failure to timely renew;

4. reinstatement pursuant to this subsection does not insulate the applicant from disciplinary action for practicing without a current license between January 1 and January 31 of the pertinent year.

C.1. A licensee who fails to timely renew his license and applies by reinstatement postmarked after January 31, shall be required to complete the following:

- a. the application for reinstatement;
- b. pay the renewal fee and the reinstatement fee;
- c. provide a written explanation of his failure to timely renew; and

d. provide two letters of character recommendation from reputable physicians, dentists, podiatrists, and/or physical therapists who have knowledge of his most recent professional activities.

2. Reinstatement pursuant to this subsection does not insulate the applicant from disciplinary action for practicing without a current license between January 1 and the reinstatement date of the pertinent year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:

Subchapter I. Continuing Education

§169. Requirements

A. ...

B. Criteria of Acceptability. Acceptable continuing education activities are defined as formally organized and planned instructional experiences of at least two hours duration per sitting, with a qualified instructor or instructors, which may include board-approved home study, videotape, DVD and/or computer courses; and with objectives compatible with the professional continuing education needs

of the physical therapist or physical therapist assistant. There are two types of approved courses: clinical/preventative courses and administrative. The entirety of the annual requirement may be comprised of approved clinical/preventative courses; however, a minimum of eight hours must be in approved clinical/preventative courses. A maximum of four hours of approved administrative courses will be allowed to be applied to the annual requirement. The minimum attendance requirement of two consecutive hours in duration must be maintained.

1. - 3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 26:1446 (July 2000), LR 28:

Subpart 2. Practice

Subchapter A. General Provisions

Chapter 3. Practice

§305. Special Definition; Practice of Physical Therapy

A. As used in the definition of practice of physical therapy set forth in the Physical Therapy Practice Act, and as used in this Chapter, the following terms shall have their meanings specified.

Physical Therapy Supportive Personnel

a. - c. ...

d. *Spinal Manipulation, Spinal Mobilization, Peripheral Joint Manipulation, and Peripheral Joint Mobilization* direct interventions which shall be performed exclusively by a physical therapist and can not be delegated to a physical therapist assistant.

Written Treatment Plan or Program written statements made by a physical therapist that specify the measurable goals, specific treatment to be used, and proposed duration and frequency of treatment. The written treatment plan or program is an integral component of a physical therapy evaluation, however, the written treatment plan or program must be completed by the physical therapist prior to delegation of appropriate treatment to a physical therapist assistant.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 21:1243 (November 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 28:

Subchapter B. Practice of Physical Therapy

§307. Prohibitions and Practice

A. - D. ...

E. A physical therapist shall perform an initial screening and assessment to determine if an individual qualifies for preventative services. The qualification for preventative services is that the individual or client has no acute medical/rehabilitative condition or exacerbation of a chronic condition requiring physical therapy treatment.

1. The initial screening shall be in writing and signed by the physical therapist with the basis for his determination that the individual or client qualifies for preventative services.

2. Preventative services shall not be billed as physical therapy treatment to third party payers (such as insurance carriers) nor to Medicare, since the provision of such services is not the administration of physical therapy treatment.

3. An individual may be a client (preventative services) and a patient (physical therapy treatment) at the same time as long as the provision of preventative services is not for the acute medical/rehabilitative condition or exacerbation of a chronic condition requiring physical therapy treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 28:

§321. Supervision Requirements

A. Licensed Physical Therapist Assistant

1. With regards to the requirement of periodic supervision of patient physical therapy services rendered by a licensed physical therapist assistant in acute care facilities, rehabilitation services, skilled nursing facilities and out-patient facilities, the supervising physical therapist shall:

a. be on premises daily for at least one-half of the physical therapy treatment hours in which the physical therapist assistant is rendering physical therapy treatment;

b. - e. ...

2. With regards to the requirement of periodic supervision of patient physical therapy services rendered by a licensed physical therapist assistant in nursing homes, school systems, and home health settings, the supervising physical therapist shall:

a. - e. ...

3. With regards to the requirement of periodic supervision of client preventative services rendered by a licensed physical therapist assistant, the supervising physical therapist:

a. shall perform an initial screening to determine if an individual qualifies for preventative services and document pursuant to §307.E;

b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;

c. shall be readily accessible by beeper or mobile phone;

d. shall conduct a face to face conference with the physical therapist assistant regarding each client at least every thirty days commencing with the initiation of the preventative services for that client; and

e. may delegate only those functions to a physical therapist assistant for which he has documented training and skills.

4. The level of responsibility assigned to the physical therapist assistant pursuant to §321.A is at the discretion of

the physical therapist who is ultimately responsible for the acts or omissions of this individual.

B. - B.3. ...

C. Physical Therapy Aide/Technician

1. - 2. ...

3. The physical therapist assistant may utilize one physical therapy aide/technician for physical assistance when more than one person is required, as determined by the physical therapist, to ensure the safety and welfare of the patient during ambulation, transfers, or functional activities. However, no portion of the treatment may be delegated by a physical therapist assistant to the physical therapy aide/technician. The use of the physical therapy aide/technician for physical assistance does not require continuous supervision on the premises by a physical therapist for the limited purpose set forth in this subsection.

4. With regards to the requirement of continuous supervision of client preventative services rendered by a physical therapy aide/technician, the supervising physical therapist:

a. shall perform an initial screening to determine if an individual qualifies for preventative services and document pursuant to §307.E;

b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;

c. shall provide continuous, on the premises, supervision of a physical therapy aide/technician during the performance of preventative services;

d. may delegate only those functions to a physical therapy aide/technician for which he has documented training and skills.

5. The level of responsibility assigned to a physical therapy aide/technician pursuant to §321.C is at the discretion of the physical therapist who is ultimately responsible for the acts or omissions of this individual.

D. - E.2. ...

F. Unavailability of Supervising Physical Therapist

1. In the event the supervising physical therapist of record as approved by the board for a physical therapist permittee or physical therapist assistant permittee can not fulfill his supervisory obligations, secondary to illness or vacation, for less than one week, then a substitute supervising physical therapist licensed by the board and in good standing may be used in his stead. The substitute physical therapist is not required to be approved by the board under this scenario; however, the board approved supervisor, the substitute supervisor, as well as the permittee supervised, will be held responsible for the acts or omissions of the supervised permittee.

2. If the supervising physical therapist of record as approved by the board for a physical therapist permittee or physical therapist assistant permittee can not fulfill his supervisory obligations, secondary to illness or vacation, for one week or more, then he shall send written notification to the board for approval of a new supervising physical therapist during his period of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the

Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:

§323. Documentation Standards

A. - A.1. ...

2. An initial physical therapy evaluation is the written documentation of patient history, pertinent medical diagnosis, signs, symptoms, objective tests or measurements, and the physical therapist's interpretation of such findings, as well as goals and written treatment plan or program as defined in §305. The initial physical therapy evaluation shall be documented and signed by the physical therapist performing the evaluation no later than seven consecutive days from the performance of the evaluation. An initial physical therapy evaluation shall not be documented or signed by a physical therapist assistant or other supportive personnel.

A.3. - B. ...

C. A signature stamp shall not be used in lieu of a written signature on physical therapy patient records. Forms of electronic signatures, established pursuant to written policies and mechanisms to assure that only the author can authenticate his own entry, are acceptable.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:

Subchapter D. License by Reciprocity

§327. Definitions

A. - D. ...

E. As used in R.S. 37:2413A.(7) the term "unprofessional conduct" means:

1. - 6. ...

7. exploitation of the physical therapy treatment or preventative services referral mechanism, whereby the referral source receives payment for his referral or marketing effort from the physical therapist in an amount calculated per patient/service or royalty/percentage of the value of the physical therapy treatment or preventative services rendered. A fixed salary or hourly flat fee may be paid by the physical therapist to a referral source who is his employee or an independent contractor which is based on a reasonable value for the locale or geographic market of the referral source.

F. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), LR 28:

§355. Substance Abuse Recovery Program

A. In lieu of suspension or revocation of a license or the denial of an application for a license, to practice physical therapy or physical therapist assisting, the board may permit an applicant or licensee to actively participate in a board-approved substance abuse recovery program if:

1. the board has evidence that the applicant or licensee is impaired, which includes substance abuse;

2. the applicant or licensee has not been convicted of a felony relating to substance abuse, which includes alcohol or

drug abuse, in a court of law of the United States or a court of law of any state or territory, or another country;

3. the applicant or licensee enters into a written Consent Order with the board for a license with appropriate restrictions and he timely complies with all the terms of the Consent Order, including making satisfactory progress in the program and adhering to any limitations on the licensee's practice imposed by the board to protect the public; and

4. as part of the Consent Order, the applicant or licensee shall sign a waiver allowing the substance abuse program to release information to the board if the applicant or licensee does not comply with the requirements of the Consent Order or the program or is unable to practice or work with reasonable skill or safety.

B. Failure to enter into a Consent Order pursuant to this Rule shall precipitate the board's right to pursue formal disciplinary action against the applicant or licensee which may result in denial, suspension, or revocation of a license to practice physical therapy or physical therapist assisting after due notice and hearing.

C. Failure to comply with the requirements of the Consent Order or the substance abuse program or the inability to practice or work with reasonable skill or safety shall result in denial, suspension, or revocation of a license to practice physical therapy or physical therapist assisting after due notice and hearing.

D. The applicant or licensee shall be responsible for any costs associated with the Consent Order and/or the substance abuse program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 28:

Subpart 3. Fees

Chapter 5. Fees

§501. Fees

A. The board may collect the following fees:

1. Application fee	\$200
2. Reinstatement fee	\$ 75
3. Annual Renewal fee	\$115
4. License Verification	\$ 40
5. Duplicate Wall license fee	\$ 50
6. Duplicate Wallet license fee	\$ 20

B. The annual renewal fee provided in this Rule shall be received by the board office prior to January 1 of each year.

C. If the annual renewal fee is received by the Board office on or subsequent to January 1, the applicant shall apply for reinstatement pursuant to §167 and shall pay the renewal fee and the reinstatement fee.

D. The board may assess reasonable charges with regards to administrative business expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 13:750 (December 1987), LR 15:392 (May 1989), LR 17:667 (July 1991), LR 18:963 (September 1992), LR 21:396 (April 1995), LR 28:

Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or the proper entities, then a public hearing on these matters will be held on June 27, 2002, at 9:00 a.m. at the office of the Board of Physical Therapy Examiners, 714 E. Kaliste Saloom. Suite D2, Lafayette, LA 70508. Please contact the board office at (337) 262-1043 to confirm whether or not the public hearing will be conducted.

Written comments concerning the proposed rules may be directed to this address and made to the attention of Pat Adams, Chairman. Such comments should be submitted no later than the close of business at 5:00 p.m. on June 21, 2002.

Pat Adams
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure; Continuing Education; Practice; Supervision; Documentation; Substance Abuse Recovery Program; and Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The board will incur an implementation cost of \$200 in FY 2002 and \$1900 in FY 2003 for publication and mailing the revised Practice Act, Rules and Regulations booklet. The cost involves reprinting of the booklet to incorporate the new amendments which are being promulgated. The new booklet, as amended, will be provided to the board's licensees and other interested parties.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board anticipates an increase in revenue from Application fees, Annual Renewal fees, License Verification fees, Duplicate Wall License fees, and duplicate Wallet License fees. For FY 2002 the board anticipates fee collection of \$161,700 and similar amounts for subsequent years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that any of the Rules amendments would necessitate any workload adjustments, additional paperwork, etc. There will be an increase realized by the physical therapist and physical therapist assistant to apply for a license. This fee has increased by \$50, which includes a license for the current calendar year. For a therapist who currently holds a license, there will be an increase of \$40 to renew that license for the next calendar year. To request verification of a license to another state, a duplicate wall license or a duplicate wallet license may be applied for. The increase in the fee to the therapist for a verification of licensure to another state or a duplicate wallet license is \$10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition and employment is anticipated.

Pat Adams
Chairman
0205#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Licensure Procedures
(LAC 46:LXXXV.301 and 303)

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.301 and 303 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et seq. These proposed rule amendments will further assist the board in its ability to certify the education of foreign veterinary school graduates prior to receiving licensure to practice in Louisiana. The proposed rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the Rule are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§301. Applications for Licensure

A. - B.7. ...

8. Prior to licensure in Louisiana, a foreign veterinary school graduate must provide to the board proof of completion of the Educational Commission for Foreign Veterinary Graduates (ECFVG) program offered through the American Veterinary Medical Association (AVMA) or the Program for the Assessment of Veterinary Education Equivalence (PAVE) program offered through the American Association of Veterinary State Boards (AAVSB).

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:65 (February 1982); amended LR 10:464 (June 1984), LR 16:224 (March 1990), LR 19:343 (March 1993), LR 23:964 (August 1997), LR 25:2231 (November 1999), LR 28:

§303. Examinations

A.1. - 3. ...

4. A candidate for examination must be:

a. ...

b. currently enrolled in or certified by the AVMA's ECFVG program or the AAVSB's PAVE program; or

c. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 8:66 (February 1982); amended LR 19:344 (March 1993), LR 19:1327 (October, 1993), LR 23:964 (August, 1997), LR 25:2232 (November 1999), LR 28:

Interested parties may submit written comments to Kimberly B. Barbier, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on June 19, 2002. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the

hearing will be held on June 26, 2002, at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, Louisiana.

Kimberly B. Barbier
Administrative Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensure Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at \$70 in FY 2002 and \$70 in FY 2003). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups. All applicants for veterinary licensure who have graduated from a foreign veterinary school are currently required to complete an education certification program as a pre-requisite to licensure. The proposed rule amendments allow for acceptance of another education certification program in addition to the program currently accepted by the Board that foreign veterinary school graduates can participate in and complete as required for veterinary licensure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly B. Barbier
Administrative Director
0205#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community Based Services Waiver Program
Children's ChoiceCService Cap Increase
(LAC 50:XXI.301)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to amend the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is amended in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopted a Rule implementing a new Home and Community

Based Services waiver called Children's Choice, which was designed to provide an alternative to the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver (*Louisiana Register*, volume 26, number 12). Children's Choice provides supplemental services, limited to \$7,500 per year per child for waiver services, to children with developmental disabilities who live with their families. Waiver recipients also receive all medical services covered by Medicaid, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services. Families of children whose names are on the MR/DD Waiver request for services registry (formally known as the MR/DD Waiver waiting list) may choose to either apply for Children's Choice or have the child remain on the MR/DD registry. The department subsequently adopted provisions for additional supports outside of the \$7,500 limit on waiver service expenditures should certain catastrophic events occur after a child has been found eligible for Children's Choice (*Louisiana Register*, volume 27, number 7).

The bureau hereby proposes to continue the administrative procedure by amending the service cap for Children's Choice services to \$15,000 per individual per plan of care year as promulgated in the April 21, 2002 Emergency Rule (*Louisiana Register*, volume 28, number 4).

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The following proposed rule will increase the amount of supports and services that are potentially available to recipients of Children's Choice Waiver services.

Title 50

**PUBLIC HEALTHC MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services**

Waivers

Subpart 1. Children's Choice

Chapter 3. Service

§301. Service Cap

A. Children's Choice services are capped at \$15,000 per year per individual.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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 26:2793 (December 2000), amended by the Bureau of Community Supports and Services, LR 28:

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

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, 446 North Twelfth Street, Baton Rouge, LA 70802-4613. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, June 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline

for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community Based
Services Waiver ProgramC Children's
ChoiceC Service Cap Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$264,247 for SFY 2001-02, \$1,387,039 for SFY 2002-03, and \$1,428,650 for SFY 2003-04. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$627,165 for SFY 2001-02, \$3,402,461 for SFY 2002-03, and \$3,504,535 for SFY 2003-04.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule will enhance the well being of approximately 620 Medicaid recipients by increasing the amount of supports and services potentially available to recipients of Children's Choice Waiver services. Implementation of this proposed rule will increase payments to providers of Children's Choice services by approximately \$891,250 for SFY 2001-02, \$4,789,500 for SFY 2002-03, and \$4,933,185 for SFY 2003-04. The proposed Rule increases the program cap from \$7,500 to \$15,000 per year for children with developmental disabilities that require waiver services.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition and employment.

Ben A. Bearden
Director
0205#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**CommunityCARE ProgramC Physician
ServicesC Reimbursement Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is amended in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

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

implemented a primary care case management program called CommunityCARE in designated parishes of the state to provide access to health care for eligible Medicaid recipients, particularly those residing in rural communities. The CommunityCARE Program provides Medicaid recipients in the designated parishes with a primary care physician, osteopath, or family doctor to serve as their primary care provider (*Louisiana Register*, volume 19, number 5). Recipients are given the opportunity to select a participating doctor, federally qualified health center, or rural health clinic in their parish of residence or in a contiguous parish to be their primary care provider. The May 20, 1993 Rule was subsequently amended to remove the prior authorization requirement for emergency medical services when appropriate medical screening determines that an emergency medical condition exists (*Louisiana Register*, volume 25, number 4) and to establish criteria for changing primary care physicians (*Louisiana Register*, volume 27, number 4).

The department has determined that it was necessary to expand the CommunityCARE Program into a statewide program. In order to facilitate provider participation, the bureau increased the reimbursement rate for certain designated Physicians= Current Procedural Terminology (CPT) procedure codes related to primary care services (*Louisiana Register*, volume 28, number 4). The department now proposes to adopt a Rule to continue the provisions contained in the April 1, 2002 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed Rule will promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the CommunityCare Program and recipient access to providers of primary medical services.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for certain designated Physicians' Current Procedural Terminology (CPT) procedure codes related to primary medical services rendered to CommunityCare recipients by providers enrolled in the CommunityCARE Program.

Reimbursement for the following CPT-4 evaluation and management procedure codes is increased to 70 percent of the 2002 Medicare allowable fee schedule. The increase shall apply only to services provided by enrolled CommunityCARE providers to CommunityCARE recipients.

CPT-4 Code	Description
99201	Office, New Patient, Straightforward
99202	Office New Patient, Expanded, Straightforward
99203	Office New Patient, Detailed, Low Complexity
99204	Office New Patient, Comp, Moderate Complexity
99205	Office New Patient, Comp, High Complexity
99211	Office Established Patient, Minimal Problems
99214	Office Est Patient, Detailed, Mod Complexity
99215	Office Est Patient, Comp, High Complexity

99218	Initial Observation Care, Straightforward, Low Complexity
99219	Initial Observation Care, Comprehensive, Moderate Complexity
99220	Initial Observation Care, Comprehensive, High Complexity
99221	Initial Hospital Comprehensive, Straightforward, Low Complexity
99222	Initial Hospital Comprehensive, Moderate Complexity
99223	Initial Hospital Comprehensive, High Complexity
99232	Subsequent Hospital, Expanded, Moderate Complexity
99233	Subsequent Hospital, Detailed, High Complexity
99238	Hospital Discharge Management
99283	Emergency Room Visit, Expanded, Low Complexity
99284	Emergency Room Visit, Detailed, Moderate Complexity
99285	Emergency Room Visit, Comprehensive, High Complexity
99342	Home, New Patient, Expanded, Moderate Complexity
99343	Home, New Patient, Detailed, High Complexity
99344	Home, New Patient
99345	Home, New Patient
99347	Home Visit, Established Patient
99348	Home Visit, Established Patient
99349	Home Visit, Established Patient
99350	Home Visit, Established Patient
99432	Normal Newborn Care Other than Hospital

Reimbursement for the following CPT-4 preventative medicine procedure codes is increased to \$51. The increase shall apply only to services provided by enrolled CommunityCARE providers to CommunityCARE recipients.

CPT-4 Code	Description
99381	Initial Healthy Individual, New Patient, Infant to 1 year
99382	Initial Healthy Individual, New Patient, Early Childhood 1-4 years
99383	Initial Healthy Individual, New Patient, Late Childhood 5-11 years
99384	Initial Healthy Individual, New Patient, Adolescent 12-17 years
99385	Initial Healthy Individual, New Patient, 18-39 years
99391	Periodic Reevaluation and Management Healthy Individual, Infant
99392	Periodic Reevaluation and Management Healthy Individual, Early Childhood 1-4 years
99393	Periodic Reevaluation and Management Healthy Individual, Late Childhood 5-11 years
99394	Periodic Reevaluation and Management Healthy Individual, Adolescent 12-17 years
99395	Periodic Reevaluation and Management Healthy Individual, 18-39 years

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, June 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all

written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: CommunityCARE Program Physician
Services Reimbursement Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$177,682 for SFY 2001-02, \$2,331,215 for SFY 2002-03, and \$3,554,388 for SFY 2003-04. It is anticipated that \$324 (\$162 SGF and \$162 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$421,561 for SFY 2001-02, \$5,718,559 for SFY 2002-03, and \$8,719,052 for SFY 2003-04.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will increase payments to CommunityCARE providers for designated primary care services provided to CommunityCARE recipients by approximately \$598,919 for SFY 2001-02, \$8,049,774 for SFY 2002-03, and \$12,273,440 for SFY 2003-04. This proposed rule will promote the health and well being of Medicaid recipients by ensuring sufficient provider participation in the CommunityCARE Program and recipient access to providers of primary medical services.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition. Implementation of this proposed rule could result in the enrollment of additional CommunityCARE providers into the Medicaid Program.

Ben A. Bearden
Director
0205#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Disproportionate Share Hospital Payment Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule 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).

The bureau subsequently adopted a rule to establish an additional disproportionate share hospital group, for state fiscal year 2001 only, composed of large public non-state hospitals in order to facilitate the transfers of public funds from qualifying health care providers as directed in Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (*Louisiana Register*, Volume 27, Number 2).

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 determined that it is necessary to amend the March 20, 2000 Rule to revise the disproportionate share qualification criteria for small rural hospitals.

Qualification for disproportionate share is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Payment is equal to each qualifying hospital's pro rata share of the uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the specified period of the preceding year multiplied by the amount set for each pool. The specified cost reporting period for all hospitals except small rural hospitals is July 1 through June 30 of the previous year. The specified cost reporting period for small rural hospitals is April 1 through March 31 of the previous year. As a result of Medicare amending its reimbursement methodology for hospitals and granting extensions on the submission dates for hospital cost reports, the bureau amended the provisions governing cost reporting periods for qualification and calculation of payments for disproportionate share (*Louisiana Register*, Volume 27, Number 9). The bureau now proposes to make amendments to continue the provisions contained in the August 8, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the disproportionate share payment methodologies for hospitals by incorporating the following revisions.

I. General Provisions

A. - C. ...

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's net uncompensated cost as defined in Section I.G. for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. A small rural hospital is a hospital (excluding a long-term care hospital, rehabilitation hospital or free-standing psychiatric hospital, but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility has been in continuous operation since July 1, 1994, is currently operating under a license issued by the department, and is located in a parish with a population, as measured by the 1990 census, of less than 50,000.

2. ...

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. ...

C. Large Public Non-State Hospitals

1. A large public non state hospital is defined as any hospital owned by a parish, city or other local government agency or instrumentality; and not included in Section III.A. or B of the May 20, 1999 Rule. A qualifying hospital may be a long term hospital.

2. Qualifying hospitals must meet the qualifying criteria contained in Section II.E and either Section II.A, B,

or C of the May 20, 1999 Rule. Qualifying hospitals must maintain a log documenting the hospital's provision of uninsured care as directed by the department. Issuance of the disproportionate share payment is contingent on the public non state hospital certifying public funds as representing expenditures eligible for FFP in compliance with Act 12 of the 2001 Regular Session of the Louisiana Legislature and appropriation of funding by the Louisiana Legislature.

3. Disproportionate share payments to each qualifying public non state hospital are equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for this pool. Payment shall not exceed each qualifying hospital's actual uncompensated costs as defined in Section I.G of the May 20,1999 Rule. If the cost reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

D. All Other Hospitals (private rural and urban hospitals, free-standing psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

1. - 2.c. ...

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, June 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Disproportionate Share Hospital Payment Methodologies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to the state as a result of this proposed Rule. It is anticipated that qualifying public hospitals will certify public expenditures as matching funds, in accordance with Act 1074 of the 2000 Regular Session that amended the Rural Hospital Preservation Act to add certain hospitals to the definition of a rural hospital. The certified match will be approximately \$17,342,771 for SFY 2000-01, \$8,863,085 for SFY 2001-02, and \$16,263,205 for SFY 2002-03. It is anticipated that \$378 (\$189 SGF and \$189 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$41,406,454 for SFY 2000-01, \$21,039,100 for SFY 2001-02, and \$38,605,907 for SFY 2002-03.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will increase disproportionate share payments by approximately \$58,749,225 for SFY 2000-01, \$29,901,807 for SFY 2001-02, and \$54,869,112 for SFY 2002-03. Implementation of this proposed Rule will enable certain qualifying public non state hospitals to receive disproportionate share payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0205#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Home Health Services Medical Necessity Criteria
(LAC 50:XIX.Chapters 1-5)**

Editor's Note: The following Subpart has recently been codified. The existing Rules pertaining to this topic are being amended and new Sections are being adopted.

The table below shows the Rules used to compile the initial text in Sections 105, 301, and 501 in Subpart 1, Home Health.

Section Number	Rules
§105	22:218 (March 1996)
§301	22:218 (March 1996); 23:1148 (September 1997)
§501	4:379 (October 1978)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule on March 20, 1996 establishing homebound criteria for the delivery of home health services under the Medicaid Program (*Louisiana Register*, Volume 22, Number 3). This Rule was subsequently amended to clarify the definition of homebound status in that all three components of the criteria must be met for a recipient to be considered homebound (*Louisiana Register*, Volume 23, Number 9). The bureau expanded the Home Health Program to include coverage of occupational and speech therapy. In addition, the bureau amended the March 20, 1996 Rule to establish new rates for home health rehabilitation services that are the same as the

rates paid for outpatient hospital rehabilitation services (*Louisiana Register*, Volume 27, Number 5). The bureau now proposes to amend the March 20, 1996 and September 20, 1997 Rules by changing the term "homebound criteria" to "medical necessity criteria" in compliance with a clarification in the Centers for Medicare and Medicaid Services guidelines. The bureau also proposes to promulgate the longstanding general provisions and service limitations governing home health services. All other provisions contained in the March 20, 1996 and September 20, 1997 Rules will remain the same.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 1. Home Health

Chapter 1. General Provisions

§101. Definitions

A. The following words and terms, when used in this Subpart 1, shall have the following meanings, unless the context clearly indicates otherwise.

Home Health Aide Services Direct care services to assist in the treatment of the patient's illness or injury provided under the supervision of a registered nurse and in compliance with the standards of nursing practice governing delegation, including assistance with the activities of daily living such as mobility, transferring, walking, grooming, bathing, dressing or undressing, eating, or toileting.

Home Health Services Patient care services provided in the patient's home under the order of a physician that are necessary for the diagnosis and treatment of the patient's illness or injury, including one or more of the following services:

- a. skilled nursing;
- b. physical therapy;
- c. speech-language therapy;
- d. occupational therapy;
- e. home health aide services; or
- f. medical supplies, equipment and appliances suitable for use in the home.

NOTE: Medical supplies, equipment and appliances for home health are reimbursed through the Durable Medical Equipment Program and must be prior authorized.

Occupational Therapy Services Medically prescribed treatment to improve or restore a function which has been impaired by illness or injury or, when the function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning.

Physical Therapy Services Rehabilitative services necessary for the treatment of the patient's illness or injury or, restoration and maintenance of function affected by the patient's illness or injury. These services are provided with the expectation, based on the physician's assessment of the patient's rehabilitative potential, that:

- a. the patient's condition will improve materially within a reasonable and generally predictable period of time; or

b. the services are necessary for the establishment of a safe and effective maintenance program.

Skilled Nursing Services Nursing services provided on a part-time or intermittent basis by a registered nurse or licensed practical nurse that are necessary for the diagnosis and treatment of a patient's illness or injury. These services must be consistent with:

- a. the nature and severity of the illness or injury;
- b. the particular medical needs of the patient; and
- c. the accepted standards of medical and nursing practice.

Speech-Language Therapy Services Those services necessary for the diagnosis and treatment of speech and language disorders that result in communication disabilities, and for the diagnosis and treatment of swallowing disorders (dysphagia), regardless of a communication disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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:

§103. Requirements for Home Health Services

A. Services must be provided at the recipient's place of residence and must be ordered by a physician as part of the plan of care that is reviewed by the physician every 60 days. By ordering home health services and signing the plan of care every 60 days, the physician is attesting that in his/her medical judgment the services are medically necessary. There must be no other equally effective, more conservative, or substantially less costly course of treatment available or suitable for the recipient requesting home health services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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:

§105. Provider Responsibilities

A. The following requirements apply to all home health agencies.

1. The home health agency must provide to the bureau, upon request, the supporting documentation verifying that the recipient meets the medical necessity criteria.

2. Home health services shall be terminated when the goals outlined in the plan of care have been reached, regardless of the number of days or visits that have been approved.

3. The home health agency must report complaints and suspected cases of abuse or neglect of a home health recipient to the appropriate authorities if the agency has knowledge that a minor child, a non-consenting adult or a mentally incompetent adult has been abused or is not receiving proper medical care due to neglect or lack of cooperation on the part of the legal guardians or caretakers. This includes knowledge that a recipient is routinely taken out of the home by a legal guardian or caretaker against medical advice or when it is obviously medically contraindicated.

4. The home health agency must ensure that the family is instructed on a home maintenance exercise program which has been established by the treating physical therapist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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:

Chapter 3. Medical Necessity

§301. Recipient Eligibility Criteria

A. Medical necessity for home health services is determined by the recipient's illness and functional limitations. A recipient is considered to meet the medical necessity criteria if the individual:

1. has a physician's order stating that he/she meets the requirements of medical necessity; and
2. experiences a normal inability to leave home; and
3. is unable to leave home without expending a considerable and taxing effort; and
4. is absent from the home either infrequently, for a short duration, or to receive medical services which may be unavailable in the home setting, such as:
 - a. outpatient kidney dialysis;
 - b. outpatient chemotherapy;
 - c. outpatient radiation therapy; or
 - d. minor surgical interventions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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:

Chapter 5. Service Limitations

§501. Home Health Visits

A. The service limitation for home health services is 50 home health visits per year, one service per day for recipients who are 21 years of age and older.

B. The service limitation of 50 home health visits per year, one service per day is not applicable for recipients up to the age of 21. However, home health services provided to recipients up to the age of 21 are subject to post-payment review in order to determine if the recipient's condition warrants high utilization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 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:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, June 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home Health Services Medical
Necessity Criteria**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that \$378 (\$189 SGF and \$189 FED) will be expended in SFY 2001-02 for the state's administrative expense for promulgation of this proposed rule and the final rule. It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2002-03, 2003-04, and 2004-05.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not impact federal revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups. This proposed rule changes the term "homebound" criteria to "medical necessity" criteria in compliance with a clarification in the Centers for Medicare and Medicaid Services guidelines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0205#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Professional Services Program
Physician Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) procedure codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPCS). Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau restored a 7 percent reduction to the reimbursement rates for selected locally assigned HCPCS

and specific CPT-4 procedure codes. In addition, the reimbursement fees for certain CPT-4 designated procedure codes were increased (*Louisiana Register*, Volume 27, Number 5). The bureau adopted a Rule to increase the reimbursement for certain designated CPT-4 procedure codes related to specialty services (*Louisiana Register*, Volume 28, Number 4). The department now proposes to adopt a Rule to continue the provisions contained in the April 1, 2002 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed Rule will promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Professional Services Program and recipient access to providers of these medically necessary services.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases reimbursement paid to physicians for certain designated Physicians' Current Procedural Terminology (CPT) procedure codes related to specialty services.

Reimbursement for the following designated CPT-4 codes is increased to 70 percent of the 2002 Medicare allowable fee schedule.

CPT-4 Code	Description
33960	External Circulation Assist
43760	Change Gastrostomy Tube; Simple
57452	Examination of the Vagina
62270	Spinal Fluid Tap, Diagnostic
64640	Injection Treatment of Nerve
85102	Bone Marrow Biopsy
90784	Therapeutic Injection IV
93501	Right Heart Catheterization Only
93510	Left Heart Catheterization, Percutaneous
95810	Polysomnography, 4 or more
96410	Chemotherapy Administration Intravenous

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, June 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Services Program Physician
Services C Reimbursement Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$61,558 for SFY 2001-02, \$501,602 for SFY 2002-03, and \$516,651 for SFY 2003-04. It is anticipated that \$216 (\$108 SGF and \$108 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$145,979 for SFY 2001-02, \$1,230,450 for SFY 2002-03, and \$1,267,363 for SFY 2003-04.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will increase payments to physicians for speciality services provided to eligible Medicaid recipients by approximately \$207,321 for SFY 2001-02, \$1,732,052 for SFY 2002-03, and \$1,784,014 for SFY 2003-04.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition. Implementation of this proposed rule could increase the enrollment and participation of physicians who perform the designated speciality services in the Medicaid Program.

Ben A. Bearden
Director
0205#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Public Hospitals C Reimbursement
Methodology C Upper Payment Limit**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established a prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a Rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). The January 1996 Rule was later amended to discontinue the practice of automatically

applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

The bureau adopted a Rule to utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c) (*Louisiana Register*, Volume 27, Number 11). 42 CFR §447.272(c) and §447.321(c) states as follows: "Exceptions - (1) Non-State government-operated hospitals. The aggregate Medicaid payments may not exceed a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles in subchapter B of this chapter." The Bureau now proposes to adopt a Rule to continue the provisions contained in the April 1, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

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

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, June 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Public Hospitals C Reimbursement
Methodology C Upper Payment Limit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$20,419,761 for SFY 2001-02, \$10,027,891 for SFY 2002-03, and \$7,898,140 for SFY 2003-04. It is anticipated that \$216

(\$108 SGF and \$108 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$48,472,670 for SFY 2001-02, \$24,598,804 for SFY 2002-03, and \$19,374,442 for SFY 2003-04.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will increase payments to public hospitals that qualify to utilize the revised upper payment limit (UPL) by approximately \$68,892,215 (150 percent of UPL) for SFY 2001-02, \$34,626,695 (100 percent of UPL) for SFY 2002-03, and \$27,272,582 (100 percent of UPL) for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that this proposed rule will have no effect on competition. For those hospitals that are experiencing financial difficulties, this increase in reimbursement may facilitate the continued operation of these facilities and thereby have a positive effect on local employment.

Ben A Bearden
Director
0205#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Advertising over the Internet and other Mass
Communication Media (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 gives notice that it intends to amend its existing Regulation 60 relating to the Advertising of Life Insurance. On June 26, 2002, at 9:00 a.m., the Department of Insurance will hold a public hearing in the Plaza Hearing Room of the Insurance Building located at 950 N. Fifth Street, Baton Rouge, Louisiana, 70804 to discuss the proposed amendments as set forth below. This intended action complies with the statutory law administered by the Department of Insurance.

The proposed 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 proposed amendments affect the following sections: §§4103, 4105, 4107, 4109, 4111, 4115, and 4117. These amendments will become effective upon final publication in the *Louisiana Register*.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 41. Regulation 60C Advertising of Life
Insurance**

§4103. Definitions

Advertisement 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:

1. 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;

2. 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;

3. 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;

4. prepared sales talks, presentations, and material for use by insurance producers.

Advertisement for the purpose of these rules shall not include:

1. communications or materials used within an insurer's own organization and not intended for dissemination to the public;

2. communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy;

3. 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 or 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. 1212.D) who 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 Cthe 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 Cincludes 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 22:1224 (December 1996), amended LR 28:

§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 22:1224 (December 1996), amended LR 28:

§4107. Form and Content of Advertisements

A. - A.1. ...

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 22:1224 (December 1996), amended LR 28:

§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. Policies Sold to Students

1. - 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. - X.1. ...

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 22:1224 (December 1996), amended LR 28:

§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 22:1224 (December 1996), amended LR 28:

§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 22:1224 (December 1996), amended LR 28:

§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 22:1224 (December 1996), amended LR 28:

§4123. Effective Date

A. This regulation shall become effective January 1, 1997 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 22:1224 (December 1996), amended LR 28:

Family Impact Statement

1. Describe the effect of the proposed amendment(s) on the stability of the family. The proposed amendment(s) should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed rule on the authority and rights of parents regarding the education and supervision of their children. The proposed amendment(s) should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed rule on the functioning of the family. The proposed amendment(s) should have no direct impact on the functioning of the family.

4. Describe the effect of the proposed rule on family earnings and budget. The proposed amendment(s) should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed rule on the behavior and personal responsibility of children. The proposed amendment(s) should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed rule on the ability of the family or a local government to perform the function as contained in the rule. The proposed amendment(s) should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Persons interested in obtaining copies of this Regulation or in making comments relative to these proposals may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business at 4:30 p.m. June 27, 2002.

J. Robert Wooley
Acting Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Advertising over the Internet and other Mass Communication Media

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is not anticipated that the proposed amendment to Regulation 60 would result in any implementation costs or savings to local or state government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments to Regulation 60 are not expected to impact revenue collections. There is provision for penalties as a result of violations under the Unfair Trade Practices Act in the Louisiana Insurance Code. Few, if any, violations are anticipated. The department staff are not aware of one previous incident that would have resulted in violation and penalty had this Regulation and the proposed amendments been in effect. Data available are insufficient for DOI to estimate how much, if any, revenue might result from violations of the proposed amendments to Regulation 60.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated benefits or costs to directly affected groups or persons as a result of the adoption of the amendments to Regulation 60.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments to Regulation 60 are not expected to have any impact on competition and employment.

Chad M. Brown
Deputy Commissioner
0205#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Board of Private Security Examiners**

Company Licensure Requirements; Application Procedure; Security Officer Registration Requirements; and Firearm Training (LAC 46:LIX. 201, 203, 301, and 405)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary gives notice that rulemaking procedures have been initiated to amend the Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX:101-907, as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. - E. ...

1. two sets of classifiable fingerprints on FBI fingerprint cards with the appropriate processing fee of the applicant or qualifying agent and/or of each officer, partner or shareholder (except for shareholders of publicly traded corporations);

E.2 - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:847 (October 1989), LR 18:190 (February 1992), LR 23:588 (May 1997), LR 26:1068 (May 2000), LR 28:96 (January 2002), LR 28:

§203. Application Procedure

A. - A.7.e. ...

f. two sets of classifiable fingerprints on FBI fingerprint cards with the appropriate processing fee;

g. - j. ...

8. two classifiable sets of prints on FBI fingerprint cards with the appropriate processing fee for the applicant, or of the manager, of each officer, partner or shareholder (except for shareholders of publicly traded corporations);

A.9. - H. ...

I. Renewal Provisions

1. A \$200 annual renewal fee, along with two FBI fingerprint cards and the appropriate processing fee for each person required to submit FBI fingerprint cards with the original application or who has subsequently become associated with the applicant in a capacity which would require submission of fingerprint cards for such person under these rules, must be submitted to the board 30 days prior to the expiration date of the license. If there have been any changes in the status of the company, then a new company application must also be submitted, along with a \$20 application fee.

J. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:752 (December 1987), amended LR 15:12 (January 1989), LR 15:847 (October 1989), LR 26:1070 (May 2000), LR 28:97 (January 2002), LR 28:

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. - D.2. ...

3. non-refundable application fee and fingerprint processing fee;

4. if a resident alien, copies of INS registration papers and completed Employment Eligibility Verification (Form I-9) together with identification documents submitted therewith;

5. if a U.S. citizen, copy of completed Employment Eligibility Verification (Form I-9) together with identification documents submitted therewith;

6. copy of photo I.D.; and

7. if applicant has worked less than 20 calendar days, documentation must nevertheless be submitted, but without the required fees if a termination form is included showing the dates worked.

E. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:11 (January 1989), LR 13:846 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001), LR 28:

Chapter 4. Training

§405. Firearms Training

A. - E.3. ...

4. shotgun;

5. 40 caliber weapon, minimum 4-inch barrel.

F. - H.2.d. ...

I. Security officers are prohibited from carrying rifles, except when requested in writing the executive secretary on a case-by-case basis may authorize the carrying of a semiautomatic rifle in the event of a national security emergency or public safety necessity. Denial by the executive secretary is appealable to the board. Security officers shall be required to complete the training required in Section 405.J before they may carry a semiautomatic rifle when authorized by the executive secretary.

J. Semiautomatic Rifle Proficiency Course. The semiautomatic rifle proficiency course shall have the following requirements.

1. Training in use of a semiautomatic rifle is to be taught only if the security officer is required to carry a semiautomatic rifle in the performance of his duties.

2. Security officer shall qualify with a semiautomatic rifle by firing the 100-yard course of fire specified by the National Rifle Association or a nationally recognized equivalent course of fire approved by the board. Qualifying score shall be an accumulated total of 80 percent of the maximum obtainable score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 23:588 (May 1997), LR 26:1073 (May 2000), LR 27:1241 (August 2001), LR 28:

These proposed regulations are to become effective upon publication as a Rule in the Louisiana Register.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 9, 2002, at 4:30 p.m. to Wayne R. Rogillio, Executive Secretary, Louisiana State Board of Private Security Examiners, 15703 Old Hammond Highway, Baton Rouge, LA 70816.

Wayne R. Rogillio
Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Company Licensure Requirements; Application Procedure; Security Officer Registration Requirements; and Firearm Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Neither costs nor savings to state or local governmental units are involved in these rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A total of approximately \$3,700 annually is anticipated from revenue collections by state governmental units from these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 370 persons in the private security industry would pay a \$10 fingerprint processing fee and would be directly affected by the amendment of the board's existing rules and regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

No effect on competition and employment is anticipated from these rule changes.

Wayne R. Rogillio
Executive Secretary
0205#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

License Plates CInternational Registration Plan, Apportioned
Plates; Tax Exemption for Certain Trucks and Trailers
(LAC 55:III.301-327)

Under the authority of R.S. 47:511, R.S. 47:508(H), R.S. 47:305.50 and R.S. 47:321 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of Motor Vehicles (department), hereby gives notice of intent to amend the existing Rule regarding the adoption of the International Registration Plan, the use of permanent metal plates on commercial motor vehicles, and the sales tax exemption on commercial motor vehicles issued apportioned plates and used in interstate commerce. These amendments are technical in nature and do not change the substance of the Rules.

The first proposed amendment adopts the current International Registration Plan by reference. The International Registration Plan authorizes the apportioned registration of fleets of vehicles among the various jurisdictions in which the vehicles are operated. This plan provides that for one license plate even though the motor vehicle is registered in more than one jurisdiction. Louisiana was approved to participate in the plan on December 1, 1975, and began participating in the plan on April 1, 1976.

The second amendment corrects the reference to a another section regarding the eligibility for a permanent metal plate.

The third amendment amends the existing Rule regarding the eligibility for the exemption from state and local sales and use taxes for commercial motor vehicles registered pursuant to the International Registration Plan. This amendment removes the requirement that the operation of the motor vehicle be outside of the state of Louisiana as that requirement is not in the statute and as operation outside of the state is not necessary to be in interstate commerce.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter A. Types of License Plates

§325. International Registration Plan

A. The Department of Public Safety and Corrections, Office of Motor Vehicles, hereby adopts by reference, the International Registration Plan, hereinafter referred to as the plan, adopted in August 1994 and as revised through October 1, 2001 by the member jurisdictions, and published by International Registration Plan, Inc. The department only adopts the articles and sections contained in the agreement, as well as the exceptions to the plan as reflected in the October 1, 2001 revision and included in Appendix C of the

plan. The commentary and governing board decisions included with the adopted plan shall not be part of this Rule, but may be considered by the department in interpreting and implementing the various sections of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:511.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:89 (January 2000), amended LR 28:

§327. Apportioned Plates

A. ...

B. The permanent metal plate issued pursuant to §325.A shall be renewed annually, but without the issuance of a renewal emblem, sticker, or tab by the Department of Public Safety and Corrections, Office of Motor Vehicles. The department shall issue a renewed certificate of registration or other credential to indicate that the metal plate attached to, and displayed by, the commercial motor vehicle is still valid. The original or a copy of the renewed certificate of registration or other credential shall be kept with the commercial motor vehicle described in the certificate or other credential.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:508(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:89 (January 2000), amended LR 28:

Subchapter C. Tax Exemption for Certain Trucks and Trailers Used 80% of the time in Interstate Commerce

§383. Exemption from Sales Tax

A. Trucks with a minimum gross weight of 26,000 pounds, trailers, and contract carrier buses used at least 80 percent of the time in interstate commerce may claim a sales and use tax exemption.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2257 (November 1999), amended LR 28:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules should not have any affect on the stability of the family. These rules regulate the use of commercial motor vehicles

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules should not have any affect on the authority and rights of parents regarding the education and supervision of their children. These rules regulate the use of commercial motor vehicles.

3. The effect of these rules on the functioning of the family. These rules should not have any affect on the functioning of the family. These rules regulate the use of commercial motor vehicles.

4. The effect of these rules on family earnings and family budget. These rules should not have any affect on family earnings and family budget. These rules regulate the use of commercial motor vehicles.

5. The effect of these rules on the behavior and personal responsibility of children. These rules should not have any affect on the behavior and personal responsibility of

children. These rules regulate the use of commercial motor vehicles.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. These rules should not have any affect on the ability of the family or local government to perform the function as contained in the proposed rules. These rules regulate the use of commercial motor vehicles.

Persons having comments or inquiries may contact Stephen A. Quidd, attorney for the Office of Motor Vehicles by writing to P.O. Box 66614, Baton Rouge, Louisiana 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by June 25, 2001. A public hearing on these rules is tentatively scheduled for Wednesday, June 26, 2002, at 9 a.m., in the Executive Conference Room at the Office of Motor Vehicles Headquarters at 109 South Foster Drive, Baton Rouge, Louisiana 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing. If the requisite number of comments are not received, no hearing will be held.

Chris Keaton
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: License Plates C International
Registration Plan, Apportioned Plates; Tax Exemption
for Certain Trucks and Trailers**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no costs or savings to state or local governments as these amendments are only technical in nature. The amendment to the International Registration Plan (IRP) rules only update the reference to the current version of the International Registration Plan and correct the section reference in '327.B. The amendment to the sales tax exemption rules removes a qualification that does not apply to interstate commerce. There will be no change in enforcement.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on the revenue collections of state or local governmental units as these amendments are only technical in nature as explained in the previous section. There will be no change in enforcement.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There should be no costs or economic benefit to directly affected persons or non-governmental groups as these amendments are only technical in nature as explained in the previous section. There will be no change in enforcement.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There should be no effect on competition and employment as these amendments are only technical in nature as explained in the previous section. There will be no change in enforcement.

Chris Keaton
Undersecretary
0205#077

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Towing, Recovery, and Storage (LAC 55:I.Chapter 19)

The Department of Public Safety and Corrections, Office of State Police, Towing, Recovery and Storage Section, in accordance with R.S. 49:950 et seq. and R.S. 32:1711 through R.S. 32:1735, gives notice of its intent to amend various rules pertaining to the towing and storage industry. In addition to many technical changes, the amendments will incorporate statutory changes increasing license plate fees and creating a new fee for storage inspection licenses.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19. Towing, Recovery, and Storage

**§1901. Declaration of Authority, Background, Policy
and Purpose**

A. The following rules are promulgated pursuant to the authority provided in R.S. 32:1711 through R.S. 32:1735.

B. ...

C. It is the purpose of these regulations to require persons engaged in the business of towing and/or storing vehicles to obtain a license, establish qualifications for applicants for a license, to require notice of towed vehicles to law enforcement agencies, owners, and the Department of Public Safety and Corrections, to require the maintenance of records, set civil and criminal penalties for the violation of these regulations and to establish the process for appeal of such penalties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), LR 28:

§1907. Definitions

* * *

Gate Fee Cthe charge assessed by a towing or storage business for access to a vehicle or for removing a vehicle or its contents before or after business hours, as found in §1939 of this Chapter.

* * *

Hazardous Materials Cany substance deemed a *hazardous material* and included on the most recent list developed as a result of the Comprehensive Environmental Response Compensation Liability Act or certain substances included on the most recent United States Department of Transportation Hazardous Material List. *Hazardous material* also means any substance designated by the deputy secretary or any material deemed a physical or health hazard in the Occupational Safety and Health Act (OSHA) as found in (*Code of Federal Regulations*) 29 CFR Part 1910.1200.

* * *

Owner Cthe last registered owner of a vehicle as shown on the records of the Office of Motor Vehicles and/or the holder of any lien on a vehicle as shown on the records of the Office of Motor Vehicles and/or any other person with a documented ownership interest in a vehicle.

* * *

Storage Facility Any business or company that receives compensation, directly or indirectly, for the storing of vehicles, to include but not limited to: tow companies, body or repair shops, new and used automotive dealers, garages, service stations, repossession companies, businesses storing vehicles for insurance companies, etc.

Tow Truck A motor vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts, under-reach equipment, tow dollies, and/or similar equipment including, but not limited to, trucks attached to trailers and car carriers designed for the transportation and/or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), LR 26:347 (February 2000), LR 28:

§1909. Tow Truck License Plates

A. Tow trucks with a GVWR of less than 10,001 pounds will not be licensed.

B. Applications for tow truck license plates shall be made to the Department of Public Safety and Corrections, in writing upon forms prescribed and furnished by the department, before a tow truck can be operated for the purpose of towing vehicles. The application must contain all information required therein, and the applicant shall tender with the application a fee of \$150, in addition to other fees required under Title 47 of the Louisiana Revised Statutes, by check or money order to the Office of Motor Vehicles, Louisiana Department of Public Safety and Corrections, P.O. Box 64886, Baton Rouge, Louisiana 70896. Upon the return of any dishonored check the application shall be canceled forthwith. The department shall be notified in writing within 10 days of any change of information supplied on the original application.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:347 (February 2000), LR 28:

§1925. Tow Truck Load Limitations

A. No tow truck shall tow another vehicle, unless the tow truck has a manufacturer's rating of 10,001 GVWR or higher, and the tow truck has been issued the appropriate towing license plate required by these rules and regulations. Tow trucks with a manufacturer's rating of less than 10,001 GVWR shall not be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), LR 28:

§1933. Prohibition of Unauthorized Operation

A. No person regulated under these rules shall stop at the scene of a motor vehicle crash or at or near an unattended disabled vehicle for the purpose of soliciting an engagement for towing service, either directly or indirectly, nor furnish

any towing service, unless that person has been summoned to such scene by the owner or operator of the disabled vehicle or has been requested to perform such services by a law enforcement officer or agency pursuant to that agency's authority.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:347 (February 2000), LR 28:

§1937. Insurance Requirements

A. ...

B. The storage operator shall maintain the following policies of insurance according to the minimum limits set forth in this Section. Each policy shall be in the name of the storage operator. The policy shall be effective throughout the period that the storage operator is qualified under these Rules. It is not the intent of this schedule to limit the operator to the types and amounts of insurance required herein. All storage companies shall comply with the provisions of this Section and if utilizing tow trucks, they shall comply with towing operator requirements:

1. worker's compensation and employer's liability insurance as required by statute;

2.a. certificates of insurance issued by an insurer licensed to do business in the state of Louisiana or a federally authorized insurance group licensed in their state of domicile with coverage in the amounts herein listed in this Section shall be submitted with the application. The insurance covered by this certificate shall not be canceled or materially altered except after 20 days prior written notice of such cancellation or alteration has been sent to the Department of Public Safety and Corrections, Office of State Police, by certified letter, return receipt requested:

i. garage keepers legal liability insurance in an amount not less than \$50,000;

ii. garage liability insurance in an amount of not less than \$50,000;

b. all certificates shall contain the initial and the expiration dates of carriage and coverage and the serial number of the vehicle that the towing license is being applied for.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), LR 28:

§1939. Towing/Storage Facility Business Practices

A. - A.2. ...

3.a. Any invoice, bill, statement, authorization or other form utilized by a towing company, which is to be signed by the owner (or agent) of a vehicle to be towed, must be of a format approved by the department. This form must clearly denote what service is being authorized by signature. That is, there will be a separate signature line, which merely authorizes the towing of the vehicle and another signature line to authorize any repairs to the vehicle.

b. No repairs shall be performed upon any vehicle unless there is an explicit signed written agreement authorizing such repairs.

c. Towing/storage companies must submit a sample copy of their invoices to the Towing and Recovery Unit to be kept on file there. Any invoice, which does not meet the criteria outlined above will be in violation of these regulations and any charges for services on an unauthorized invoice will be forfeited.

B. ...

C. The address that the towing/storage service lists on its application shall be the business location where its business records are kept. The application and certificates of insurance shall also list the locations of all storage areas for vehicle redemption.

D. ...

E. Towing/storage services must make business records available for inspection upon request by law enforcement officers, and shall provide copies upon request, which information shall be confidential and shall not be released or deemed a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), amended LR 26:347 (February 2000), LR 28:

§1941. Storage Procedures

A. - C. ...

D. Any person who shows proof of ownership or written authorization from the stored vehicle's registered or legal owner may inspect, photograph, view the vehicle and remove non-affixed personal items, such as: tools, purses, wallets, clothing, child car seats, insurance papers, registration, title, drivers license, license plate and any other loose items that may be removed without vehicle disassembly, without charge during normal business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:348 (February 2000), LR 28:

§1943. Storage Facility (Except those Described in §1951 of these Rules)

A. - E. ...

F. Except when a vehicle is stored by or upon request from a law enforcement agency or under contract as described in R.S. 32:1722:

- 1. the storage operator shall provide to the law enforcement authorities or their designees:
 - a. the location from which the vehicle was towed;
 - b. a description of the vehicle;
 - c. the license plate number and vehicle identification number of the vehicle;
 - d. the name and address of the location to which the vehicle was towed; and
 - e. an official report of stored vehicle card must be filed with the Department of Public Safety, Office of Motor Vehicles, Reconstructed/Stored Vehicle Unit or its agent.
- 2. each law enforcement authority or designee receiving information pursuant to the provisions of this Section shall accept, record, and file the information in order that it can be obtainable for responding to requests from the public.

G. - I. ...

J. Towing and storage operators will maintain all records dealing with the towing and storage of vehicles for a minimum of three years. The Office of State Police shall have the right to enter and inspect all towing/storage facilities during normal working hours and these documents will be made available upon request.

K. All towing services shall maintain impoundment records which shall include the following information:

- 1. the date and time the call for service was received and from whom it was received, when applicable;
- 2. a description of the vehicle including make, model, color, vehicle identification number, and license plate number;
- 3. the date, time, and place at which the operator began the towing operation;
- 4. the date at which the impounded vehicle was released to the owner;
- 5. the name of the driver of the tow truck;
- 6. letters of notification as required by these rules;
- 7. proof of administrative costs;
- 8. records of release of vehicle(s), to include the full, legal name and drivers license number of the person to whom the vehicle was released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), LR 28:

§1945. Storage Rates

A. ...

B. No storage facility shall charge an insurer, or any other person, a storage fee for a vehicle which is greater than the amount set by statute or by the Public Service Commission (PSC).

C. Any storage facility which charges and receives a fee in excess of the legal amount, shall return all storage fees received for storage of the vehicle for which an excess fee was charged and shall be subject to a civil penalty. Each daily overcharge shall constitute a separate violation for which a civil penalty may be assessed.

D. The daily storage fee shall be the only fee charged by a storage facility during storage of a vehicle. There shall be no additional charges for locating or retrieving the vehicle in the storage facility, viewing of the vehicle, photographing the vehicle, removal of items from the vehicle, or for any other similar activity which does not require towing the vehicle during regular business hours. A towing or storage company that assesses after hours gate fees shall not assess such fees in an amount in excess of \$45. Owners of a vehicle charged fees in violation of this section, shall have cause of action to recover the amount of the excess fees, plus attorney fees and all court costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), amended LR 26:348 (February 2000), LR 28:

§1947. Notification to Department of Public Safety and Corrections

A. Whenever any vehicle (except as otherwise exempted in R.S.32:1722) subject to registration in this state has been stored, parked, or left in a garage, or any type of public

storage or parking lot, other than the type of parking facility denoted in §1951 of these rules, where fees are charged for such storage or parking, the owner of the storage or parking facility shall, within a period of three business days of the date the vehicle has been stored or parked, report in writing to the Department of Public Safety and Corrections, Office of Motor Vehicles, Reconstructed/Stored Vehicle Unit, P.O. Box 64886, Baton Rouge, LA 70896, or the department's authorized agent, the make, model, vehicle identification number, license plate number, state of issuance and expiration date, if known, the date of storage of such vehicle, notice indicating the storage company has complied (paid fees) with the annual State Police Storage Inspection License, and the storage inspection license number on a form furnished and approved by the department or its authorized agent. The department, or the department's authorized agent, shall provide, the owner of the storage or parking facility with the most current owner information available on the stored vehicle and if the vehicle is reported stolen (i.e., "reported stolen") in writing. If the department reports that a stored vehicle is or has been registered in another state, that report shall indicate that the department has used due diligence in obtaining information from nationwide databases available to the department.

B. No tow truck owner or operator shall be liable, civilly or criminally, when the department or its authorized agent fails to provide the information requested in Subsection A of this Section in a timely manner, if the tow truck owner or operator sends notification to the stored vehicle's owner in accordance with the provisions of R.S. 32:1720.

C. ...

D. The department or its authorized agent shall verify companies have complied with the storage inspection license requirements, by requiring the company's valid storage inspection license number be listed on the Official Report of Stored Vehicle (ORSV). In the event a company has not complied with the storage inspection licensing requirements, the department or its authorized agent shall:

1. provide the owner information requested on the ORSV to the storage or towing company; and
2. notify the LSP Towing and Recovery Unit, in writing and within three business days of receiving an ORSV card, with the name of the filing company and a copy of the ORSV.

E. Companies storing vehicles shall include a copy of their valid storage inspection license when filing with the Department for permits to sell or permits to dismantle vehicles stored under this Chapter.

F. The department (or its authorized agents) shall not issue permits to sell, or permits to dismantle, to companies failing to comply with the storage inspection licensing requirements.

G. Storage companies shall apply and be issued Storage Inspection Licenses prior to charging or collecting storage or administrative fees. Any company found in violation shall be subject to civil and/or criminal penalties and shall forfeit all storage and administrative fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), LR 28:

§1949. Owner Notification of a Stored Vehicle

A. Within 10 business days from the date the department, or its authorized agent, sends the owner's information of the stored vehicle to the owner of the storage or parking facility, the owner of the storage or parking facility shall send notice (except as otherwise exempted in R.S. 32:1722), by certified mail, return receipt requested, to the last registered owner of the vehicle at the owners last known address and the holder of any lien, if any, on the vehicle as shown in the department's motor vehicle records, and any other documented ownership interest in the vehicle known by the storage or parking facility.

B. The notice required in Subsection A of this Section shall include the following information:

1. the name, location, and physical and mailing address of the storage or parking facility;
2. a description of the vehicle including the year, make, model, and vehicle identification number;
3. the vehicle license plate number, state of issuance, and expiration date, if known;
4. the name of the person or agency which had the vehicle towed or placed in storage;
5. the date the vehicle was placed in storage and any applicable adjusted storage dates;
6. the condition of the vehicle;
7. all outstanding charges against the stored vehicle;
8. notice of the owner's right to an administrative hearing as required in R.S. 32:1727. The notice shall contain the deadline for requesting an administrative hearing, it shall also contain information regarding the date by which the request for an administrative hearing must be mailed by certified letter, return receipt requested and the name and address of the public agency that had the vehicle towed, which is also responsible for conducting the hearing.

C. Administrative Fees

1. Towing/storage services may charge the registered owner/lien holder those administrative costs incurred by filing of the official report of stored vehicle card with the Office of Motor Vehicles along with any postal charges related to the mailing of the official report of stored vehicle card or certified letters to the registered owner/lien holder.

2. All costs must be documented with receipts which shall be made available to the registered owner/lien holder upon demand. Failure to comply will result in the forfeiture of all administrative costs, towing, and storage fees.

3. The maximum administrative fee that may be charged for filing of the Official Report of Stored Vehicle card shall be \$25 for in-state notifications and \$30 for out-of-state notifications. The maximum administrative fee that may be charged for mailing certified letters to the registered owner/lien holder shall be no more than the rate designated by the U.S. Postal Service for certified letters plus \$4 per letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:348 (February 2000), LR 28:

§1953. Permit to Sell

A. Abandoned/Repaired Vehicles, Nonpayment of Storage/Repairs

1. Whenever any vehicle of a type subject to registration in this state has been stored or left in possession of a motor vehicle dealer or repairman, for repair or otherwise, and the same has not been claimed after 45 days from the notice required in R.S. 32:1720, and no payment for the cost of storage or repair has been made for that period, the motor vehicle dealer or repairman with whom the vehicle has been left for storage or repair may dispose of it as described in R.S. 32:1728 and collect the charges and cost of storage and cost of actual authorized repairs, if the storage facility has complied with this Chapter and the following provisions: R.S. 32:1719, 32:1720 and 32:1717.1. The charges and costs for storing shall not exceed any maximum charges set by the Public Service Commission for storage services pursuant to its legal authority under R.S. 45:180.1, or as otherwise provided by state law.

2. Only towing services and/or storage facilities that have complied with R.S. 32:1717.1, may apply to the Office of Motor Vehicles, Reconstructed / Stored Vehicle Unit, P.O. Box 64886, Baton Rouge, LA 70896, for a permit to sell as referenced above in accordance with the procedures outlined in R.S. 32:1728 and this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), LR 28:

§1955. Revocation or Suspension of Tow Truck License Plate

A. Any person who violates any rule or regulation herein may have his/her tow truck license plate(s) revoked or suspended by the deputy secretary or his authorized subordinate, and is subject to civil and/or criminal penalties pursuant to the provisions of R.S. 32:1711 through R.S. 32:1735.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), LR 28:

§1963. Hearings

A. ...

B. The hearing shall be conducted by the public agency authorizing the tow (or other body authorized to do so) within three business days after receipt of the request for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), LR 28:

§1973. Storage Facilities; Licensing, Fees, Inspection, Requirements

A. Each towing company or storage facility which stores vehicles under the provisions of this chapter, shall pay an annual, non-prorated, non-refundable fee of \$100 for a Storage Inspection License for each storage location to the Louisiana State Police, Towing and Recovery Unit prior to conducting business. The fee shall be paid no later than the first day of July each year or prior to a new business commencing operation or new location being utilized, and shall be accompanied by a completed application for a Storage Inspection License.

B. If the application for renewal has not been received by the Towing and Recovery Unit on or before the 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 and paid.

C. All fees required for application/renewal and any administrative fines or penalties shall be remitted to the following address: Louisiana State Police, Towing and Recovery Unit, Mail Slip 21, P.O. Box 66614, Baton Rouge, LA 70896.

D. Towing/storage companies must make business records available for inspection by state police officers, and shall provide copies upon request.

E. A valid, non-transferable Storage Inspection License shall be displayed in a clearly visible, publicly accessible location at the business office of each storage location.

F. All towing and/or storage companies with a change in name and/or ownership, shall immediately reapply to Louisiana State Police, Towing and Recovery Unit.

1. Companies with a change in name only, shall be reissued a storage inspection license with the proper name and will not be charged the current annual fees for the valid existing license.

2. Companies with a change in ownership shall relinquish their storage inspection license to the LSP Towing Unit prior to the transfer of ownership. New owners shall apply and pay all required fees prior commencing operations.

G.1. The department or its authorized agent shall verify companies have complied with the Storage Inspection License requirements, by requiring the company's valid storage inspection license number be listed on the Official Report of Stored Vehicle (ORSV). In the event a company has not complied with the Storage Inspection Licensing requirements, the department or its authorized agent shall:

a. provide the owner information requested on the ORSV to the storage or towing company; and

b. notify the LSP Towing and Recovery Unit, in writing and within three business days of receiving an ORSV card, the name of the filing company, and a copy of the ORSV.

2. Companies that fail to comply with the licensing requirements set forth in this chapter and charge for vehicle storage shall be subject to administrative penalties in accordance with law and rule.

H. Companies storing vehicles shall include a copy of their valid storage inspection license, when filing with the department for permits to sell or permits to dismantle vehicles stored pursuant to this Chapter.

I. The department (or its authorized agents) shall not issue permits to sell or permits to dismantle to companies failing to comply with the storage inspection licensing requirements.

J. Storage companies shall apply for and be issued Storage Inspection Licenses prior to charging or collecting storage or administrative fees. Any company found in violation shall be subject to civil and/or criminal penalties and shall forfeit all storage and administrative fees.

K. All licensees and applicants for license shall be current in filing all applicable tax returns and in the payment of all taxes, penalties and interest owed to local government, the state of Louisiana and the Internal Revenue Service.

L. Prior to obtaining a storage inspection license, all applicable parish and/or municipal occupational licenses required for a facility to operate within said parish or municipality shall be current and valid.

M. Storage companies shall comply with the insurance requirements listed in this Chapter, namely:

1. garage keepers legal liability insurance in an amount not less than \$50,000;
2. garage liability insurance in an amount of not less than \$50,000;
3. any other applicable insurance requirements listed in this Chapter, i.e., tow trucks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 28:

§1975. Law Enforcement Rotation Lists

A. Law enforcement agencies may establish a rotation list of towing companies, located within their jurisdiction, with tow trucks and facilities licensed in accordance with the provisions of R.S. 32:1711 through 32:1735.

B. Towing companies selected by a law enforcement agency to participate in the rotation list shall participate at the discretion of the law enforcement agency and may be removed for any violation of law, agency rule or policy.

C. Towing companies selected by the owner or operator of a motor vehicle or the law enforcement officer shall be allowed to respond to the call within 45 minutes. If the towing company fails to arrive within 45 minutes the law enforcement officer may select the next available towing company from the approved rotation list.

D. The owner or operator of a motor vehicle who cannot provide law enforcement officers with sufficient proof of liability insurance coverage on said vehicle, may select a licensed towing company to tow his vehicle. If the owner or operator of a vehicle does not choose to select a particular licensed towing company, the next available licensed towing company on the approved law enforcement rotation list, if any, shall be called by the law enforcement officer to tow the vehicle.

E. Tow companies utilized on Louisiana State Police (LSP) rotation lists shall comply with established LSP policies and procedures. Failure to comply may result in civil penalties being levied, removal from a rotation list(s) or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1735

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 28:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments to Paul Schexnayder, Post Office Box 66614, Baton Rouge, Louisiana 70896-6614. Written comments will be accepted through June 7, 2002.

Christopher Keaton
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Towing, Recovery and Storage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no costs nor savings to state or local government as a result of the adoption of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Public Safety estimates revenue collection will increase by \$155,000 annually due to the increase in license plates fees and to the new fee for storage inspection licenses, which fees are mandated by statutes enacted in the 2001 legislative session.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Tow truck operators will be required to pay an additional fifty (\$50.00) dollars for a towing and recovery license plate and storage companies will pay one hundred dollars (\$100.00) for a storage inspection license for each storage location. Towing and storage companies will be allowed to charge an additional five dollars (\$5.00) in administrative fees and an additional four dollars (\$4.00) for certified letters.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Christopher Keaton
Undersecretary
0205#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Weights and Standards CDefinitions, Weight Limitations
(LAC 55:I.2303 and 2315)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 32:380-389 gives notice of its intent to amend LAC 55, Part I Chapter 23, §§2303 and 2315 to delete the definition

of measurable precipitation and to delete all language prescribing weight limitations for solid waste haulers when there has been such precipitation.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 23. Weights and Standards

§2303. Definitions

* * *

Measurable Precipitation Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2627 (November 2000); amended LR 28:

§2315. Weight Limitations

A. - B.5.g. ...

C. Any truck fitted with a compactor body which is engaged in the collecting and hauling of solid waste shall not be assessed a penalty for exceeding the maximum permissible gross weight if the waste is wet and the location from which the waste was collected had received measurable precipitation within 24 hours prior to collection.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:380-389.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 26:2629 (November 2000); amended LR 28:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, Louisiana 70896. Written comments will be accepted through June 15, 2002.

Christopher Keaton
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Weights and Standards C Definitions,
Weight Limitations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no savings regarding the adoption of these Rules as this Rule change will simply eliminate enforcement of vehicle weight regulations against haulers of solid waste under certain weather conditions. The costs to state and local government will be in the form of increased damage to the roads.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Public Safety estimates revenue collection will decline by \$68,000 annually due to reduced enforcement against solid waste haulers.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Entities involved in the collecting and hauling of solid waste will experience economic benefits in the form of reduced fines and will benefit from reduced costs as a result of the need for fewer vehicles required to haul the waste. The state's driving public will experience the increased cost of greater danger on the roadways as a consequence of the heavier loads being transported.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Chris Keaton
Undersecretary
0205#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Alligator Tag Fee (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby advertises its intent to suspend a portion of the alligator tag fee.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators, tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the Department Secretary; the Assistant Secretary, Office of Wildlife; and the Fur and Refuge Division.

1. - 3. ...

4. Licenses, Permits and Fees

a. The licenses and fees required for activities authorized by these regulations are as prescribed under

provisions of Title 56, or as prescribed in these regulations, and are:

i. - x. ...

xi. \$4 for each alligator hide tag; provided however, that this Commission does hereby suspend the collection of \$1 of the \$4 tag fee. This suspension shall commence in September 2002 and continue for a period of 2 years or until such time this commission takes further action, whichever occurs first;

4.a.xii. - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263, and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Brandt Savoie, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Wednesday, July 3, 2002.

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: Alligator Tag Fee**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units associated with this proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The annual reduction in revenues collected and deposited into the Alligator Resource Fund in FY 02-03 and FY 03-04 is estimated to be \$214,000 as a result of this proposed rule change. Reduction in revenue collected and deposited into the Alligator Resource Fund in FY 04-05 is estimated to be \$53,500.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

An annual cost savings of \$214,000 to alligator industry participants who are currently assessed the alligator hide fee is estimated to occur in FY 02-03 and FY 03-04. Cost savings for FY 04-05 are estimated to be \$53,500, since the reduction in the tag fee will end during FY 04-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition, as the fee reduction will apply uniformly to all individuals currently paying the fee. Since the proposed fee reduction will result in a cost savings, there may be a positive effect on employment within the alligator industry.

James L. Patton
Undersecretary
0205#048

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Cypress Lake and Black Bayou Reservoir Netting
Prohibition (LAC 76:VII.195)

The Wildlife and Fisheries Commission hereby advertises its intent to establish the following rule on commercial netting in Cypress Lake and Black Bayou Reservoir in Bossier Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§195. Cypress Lake and Black Bayou Reservoir Netting Prohibition

A. The Wildlife and Fisheries Commission hereby prohibits the use of gill nets, trammel nets, and fish seines in Cypress Lake and Black Bayou Reservoir, Bossier Parish, Louisiana.

B. Effective with this prohibition, no person shall possess any gill net, trammel net or fish seine while on the waters of Cypress Lake or Black Bayou Reservoir. In addition, no person shall take, possess or sell any fish, which was taken with a gill net, trammel net or fish seine from Cypress Lake or Black Bayou Reservoir.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

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

Interested persons may submit written comments on 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., Wednesday, July 3, 2002.

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.

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: Cypress Lake and Black Bayou
Reservoir Netting Prohibition**

**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 have to 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 significant 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)**

The proposed rule bans the use of entanglement-type nets in Cypress Lake and Black Bayou Reservoir in Bossier Parish. The rule may force a small number of commercial fishermen to change gears or fishing locations. Although the costs and revenues to commercial fishermen and related businesses cannot be determined, the effect is anticipated to be minimal. By protecting some game fish species, particularly largemouth bass, the proposed rule should help maintain the current level of sport fishing opportunities in Cypress Lake and Black Bayou Reservoir.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule should have minimal impact on competition and employment in the public and private sectors.

James L. Patton
Undersecretary
0205#049

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Oyster Lease Moratorium (LAC 76:VII.500 and 505)

The Wildlife and Fisheries Commission does hereby give notice of its intent to repeal LAC 76:VII.500 relative to lifting the oyster lease moratorium and to amend and re-enact LAC 76:VII.505 relative to a moratorium on new oyster leases. Authority for adoption of this Rule is included in R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1. Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§500. Lifting of Oyster Lease Moratorium

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and R.S. 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:808 (August 1991), repealed LR 28:

§505. Oyster Lease Moratorium

A. A moratorium on the issuance of oyster leases for waterbottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease applications for waterbottoms not presently under lease. All pending applications will be held, along with all fees paid, pending a resolution of the moratorium, unless the applicant requests cancellation of the application and refund of fees. In the event of the death of an applicant, the applicant's heirs or legatees should so notify the Department; and any lease ultimately issued shall only issue to persons placed in possession of the application by Judgment of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

B. A moratorium is placed on the auction of oyster leases in default in payment of rent per LAC 76:VII.501.G, as authorized by R.S. 56:429.

C. Any leases selected by a leaseholder who has previously selected the relocation option pursuant to R.S. 56:432.1 shall be exempt from this moratorium but only to the extent of such previous selection.

D. At such time as the moratorium is lifted, applications for oyster leases will be accepted in accordance with all applicable statutes, rules and regulations and the procedures set out below.

1. One week prior to the date that the moratorium is lifted, the date, time and place where applications are to be taken will be publicly advertised.

2. On the date for taking applications only one applicant at a time will be allowed in the office and this applicant will be allowed to take only one application. Each applicant will have 15 minutes to designate the area he wishes to apply for. After the applicant pays the application and survey fees, he may return to the end of the line for another application.

3. Applications will be taken 24 hours a day (on a first-come basis) until the department feels the influx of applicants can be handled during regular office hours at the New Orleans Office, at which time anyone will be able to take an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 28:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Heather Finley, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Wednesday, July 3, 2002.

Family Impact Statement

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 R.S. 49:972.B.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Oyster Lease Moratorium**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The Department of Wildlife and Fisheries will lose revenues from oyster lease application fees, survey fees, annual new lease rental fees, severance taxes, oyster tag sales, and from auctioned oyster leases in default due to non-payment of rent. Those are estimated to be \$128,152, \$160,772 and \$193,393 for Fiscal Years 2002-2003, 2003-2004, and 2004-2005, respectively.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons with pending applications for new oyster leases will experience a negative impact because they will be unable to cultivate the acreage they had applied for. Applicants who choose to leave their application fees on file for the duration of

the moratorium would lose the revenue that could be earned if the application fees were invested in other alternatives (i.e., a savings account). Persons wishing to make new applications for leases or bid on oyster leases that are in default due to non-payment of rent may also experience negative impacts from the oyster lease moratorium.

Planned gross revenue streams from new leases will be delayed until the moratorium is lifted. Estimated gross revenues forgone by affected persons have been estimated to be \$465,540 and \$931,079 for Fiscal Years 2003-2004 and 2004-2005, respectively. In addition, many other factors could affect revenues in the long-term, including unpredictable factors such as fluctuations in the dockside price of oysters, fuel costs, rainfall and salinities. Thus, the impact on revenues resulting from this rule cannot be completely quantified, but is recognized to vary depending on individual situations and changes in economic, environmental and political factors beyond one's control.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to have an effect on competition or employment in the short term. Long-term trends in competition and employment are dependent upon so many variables that it's impossible to predict the long-term impact on competition and employment of the proposed rule, particularly when there is no specified moratorium ending date.

James L. Patton
Undersecretary
0205#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

**House of Representatives
Subcommittee on Oversight of the
House Committee on Commerce
May 8, 2002**

Calcasieu River WaterwayC River Port Pilots
(LAC 46:LXXVI.Chapter 6)

Pursuant to the authority of R.S. 49:968, the Subcommittee on Oversight of the House Committee on Commerce conducted a public hearing on May 7, 2002 to review proposed Chapter 6 of Part LXXVI by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, relative to the regulation of river pilots operating on the Calcasieu River. The rules were proposed by the board in a notice of intent published on February 20, 2002, and the summary report of public testimony was received by the subcommittee on April 12, 2002. The subcommittee received testimony from board members, river

pilots, industry representatives, concerned citizens, and others regarding the rules.

The members of the subcommittee expressed concerns as to the necessity and timing of promulgation of the rules and the potential liability of the State of Louisiana if certain provisions of the proposed rules were adopted. Certain opponents of the rules agreed that limited regulation is necessary but that the proposed rules are unduly burdensome for river pilots. thus, the subcommittee proposed that certain problematic sections be removed from the rules, and then by a unanimous vote, the subcommittee severed and found unacceptable the following Sections and Subsections of the proposed rule: 603.L, 607, 609, 613.A, 613.E, 617.D, 619.G, and 621.B. By a separate vote of 8 to 6, the subcommittee approved the remainder of the proposed rules.

Gil Pinac
Chairman

0205#060

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given July 22-26, 2002, 9:30 a.m. at Lomax Hall, Louisiana Tech University, Ruston, LA. The deadline for sending in application and fee is June 7, 2002. No applications will be accepted after June 7, 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 June 7, 2002. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0205#078

POTPOURRI

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

Imposition of Quarantine

In accordance with the provisions of R.S. 3:2094, R.S. 3:2095, and R.S. 3:2097 the Louisiana State Livestock Sanitary Board hereby issues the following quarantine.

I. Facts Supporting Quarantine

Chronic Wasting Disease, (CWD), now infects deer and elk herds in eight states of the United States and in the Canadian province of Saskatchewan. It affects elk, white-tailed deer, black-tailed deer, mule deer and red deer. CWD is a neurodegenerative disease that is related to other spongiform encephalopathies such as Bovine Spongiform Encephalopathy, (Mad Cow Disease), in cattle and Scrapie in sheep. CWD appears to have a 100 percent mortality rate. There is no known cure for CWD. The means by which CWD is transmitted are not known at this time, although animal-to-animal contact appears to be a transmittal method. The disease is very resistant and may be able to live outside an animal for an extended period of time. Although CWD appears to be limited to deer and elk, and is not known to be capable of being transmitted to cattle or other livestock, the disease is so poorly understood that it may pose a risk to other livestock.

In 2001, the United States Department of Agriculture declared a state of emergency in regard to CWD. Other states, such as Texas and Florida, have prohibited the importation of deer and elk. The cost of monitoring and

controlling CWD has reached or exceeded \$1,000,000 in some states.

This state has approximately 135 alternative livestock farms that raise imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer. The alternative livestock industry in Louisiana is growing and is becoming an important part of the Louisiana agricultural industry. The alternative livestock industry generates an economic impact in Louisiana of over \$30,000,000.

For these reasons CWD presents an imminent peril to the public health, safety and welfare, as well as an imminent peril to Louisiana's livestock. As a result of this imminent peril, the Louisiana State Livestock Sanitary Board hereby exercises its plenary power to deal with all contagious and infectious diseases of animals and declares this quarantine to prevent the introduction of CWD into Louisiana.

II. Objectives of Quarantine

The objectives of this quarantine are:

1. to isolate Louisiana livestock from contact with alternative livestock from other states that are not certified as being free from CWD; and
2. to prevent the spread of CWD into the state of Louisiana.

III. Geographical Area of Quarantine

The geographical area of this quarantine is the entire state of Louisiana.

IV. Prohibitions

The following actions are hereby prohibited unless otherwise specifically authorized in writing by the Commissioner of Agriculture and Forestry:

1. moving, shipping or transporting any elk, white-tailed deer, black-tailed deer, mule deer or red deer into or through the state of Louisiana, except as otherwise provided for in this quarantine;
2. moving, shipping or transporting any elk, white-tailed deer, black-tailed deer, mule deer or red deer out of the state of Louisiana with the intent or expectation of returning the animal(s) to Louisiana.

V. Criteria for Quarantine Compliance

Any person seeking to import any elk, white-tailed deer, black-tailed deer, mule deer or red deer into or through the state of Louisiana during the existence of this quarantine must meet the following criteria before attempting to move, ship or transport any such animal(s) into or through Louisiana.

1. A written request must be made to the Commissioner through the State Veterinarian.
2. Certification from the state the animal(s) are located in that the animal(s) are not from herds quarantined for CWD.
3. Certification from the state the animal(s) are located in that the animal(s) are from herds that have participated in a recognized CWD surveillance and monitoring program for at least 60 months.
4. Certification that each animal has been in the herd of origin for at least 60 months or for its entire life if younger than 60 months of age.

5. Each animal is accompanied by a certificate of veterinary inspection issued within the preceding 30 days.

6. A permit number is obtained from the Louisiana Office of Animal Health Services by the veterinarian issuing the certificate of veterinary inspection.

7. Written authorization from the Commissioner or his designee to move, transport or ship the animal(s) into or through Louisiana.

V. Time Limit

This quarantine shall remain in effect until rescinded by written order of this board. Authorization from the Commissioner or his designee(s) to do any of the prohibited acts, whether in whole or in part, shall not be construed as a rescission, or modification of this quarantine.

VI. Date of Adoption

This quarantine was adopted by the Louisiana State Livestock Sanitary Board and signed this 30th day of April 2002 at Baton Rouge, Louisiana.

Bob Odom
Chairman

0205#045

POTPOURRI

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, June 8, 2002, at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

0205#024

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Maternal and Child Health Section**

Maternal and Child Health (MCH) Block Grant

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 2002-2003 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment, conducted in 2000.

Interested persons may request copies of the application from:

State of Louisiana
DHH - Office of Public Health
Maternal and Child Health Section, Room 612
P.O. Box 60630
New Orleans, LA 70160

Or view copies of the application at www.oph.dhh.state.la.us/maternalchild/index.

Additional information may be gathered by contacting Kirti Y. Patel at (504) 568-5073.

David W. Hood
Secretary

0205#066

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
Herbert W. Beasley	Monroe	M	Mary Miller	4	154271
Evelyn Ramsey	Monroe	M	Johnson	1	143282
Evelyn Ramsey	Monroe	M	Johnson	4	143285
Henry R. Taylor	Monroe	M	Henry Taylor	1	144464
Gene Chapman	Monroe	M	Nolan	1	144532
Joe F. Bennett	Mount Pleasant	M	J F Bennett	1	163512
Odell Reed	East Columbia	M	VUA; Reed Estate	1	144564
W. H. Marshall	Monroe	M	Spencer	1	111434
Ben C. Johnson	Monroe	M	K D Lankford	1	086055
Ben C. Johnson	Monroe	M	Langford Johnson	1	142727
Elmer Earl Bradley	Monroe	M	Bradley	1	175268
Brenda B. McQueen	Monroe	M	Buffington A	1	162236
Louis J. Roussel	Golden Meadow	L	Ines Pierce	3	036826
Louis J. Roussel	Golden Meadow	L	Ines Pierce	4	036892
Louis J. Roussel	Golden Meadow	L	Inez Pierce	6	039670
Lillie U. Crow	Monroe	M	L. U. Crow	1	156625
Doug Winn	Monroe	M	Morris	1	116959
Oil Reserve Corp. of America	Caddo Pine Island	S	COMEG YS B	1	213314
Oil Reserve Corp. of America	Caddo Pine Island	S	COMEG YS B	2	218096

Oil Reserve Corp. of America	Caddo Pine Island	S	COMEG YS B	3	218546
Oil Reserve Corp. of America	Caddo Pine Island	S	COMEG YS C	2	219882
Slick Oil Corporation	Starks	L	Industrial Lumber Co. A	3	072294
Mecom Petroleum	Wildcat-South LA	L	The Lacassane Co.	1	063361
Jim Purdue	Monroe	M	Jim Purdue	1	083955
Marvin Spigener	Monroe	M	L. J. Love	1	087541
John Shadic	Monroe	M	Shadic	1	083468
B. R. Allen, Jr.	Monroe	M	D. C. Rugg	1	048423
Elmer W. Wilson, Jr	Monroe	M	James R. White	1	109681
Sasha Petroleum, Inc.	Trout Creek	M	W. E. Kreh	1	045803
Harold H. Hollenshead	Sarepta	S	Perkins	1	192865
Harold H. Hollenshead	Sarepta	S	Perkins	3	193359
Weldon Acree	Monroe	M	Acree	1	086494
Weldon Acree	Monroe	M	W. Acree	1	086495
Weldon Acree	Monroe	M	Weldon Acree	1	145799
Weldon Acree	Monroe	M	Weldon Acree	2	145800
Betty R. Acree	Monroe	M	Willard Acree	1	145870
Clay Hollingsworth	Monroe	M	Fee	1	176102
Lomac Drilling Company, et al.	Wildcat	S	Elmo P. Lee, et al.	1	080476
Smith-Wentworth	Bee Brake	M	Crothers	1	103854
John W. Mecom	Chacahoula	L	Dodge Sundberry & Lothman	4	122908
LA Iron & Supply Co.	Wildcat-No. LA	S	E. J. Bolin	1	013456
Kilroy Co. of Texas, Inc.	Boston Bayou	L	Vermilion Parish School Board	1	095743
Burton E. Russell	Monroe	M	D. Russell	1	079303
Louie Dunn	Banks Springs	M	Dunn	1	137696
Louie Dunn	Banks Springs	M	Dunn	1D	138069
Sam Hixon	Monroe	M	Sam Hixon	1	144461

Jack C. Caldwell
Secretary

0205#052

POTPOURRI
Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Loran Coordinat

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 22 claims in the amount of \$68,625.69 were received for payment during the period April 1, 2002-April 30, 2002. There were 21 claims paid and 1 claim denied.

Loran Coordinat of reported underwater obstructions are:

27923	46869	Terrebonne
28586	46898	Jefferson
29036	47037	St Bernard

Latitude/Longitude Coordinates of reported underwater obstructions are:

2905.120	9014.250	Lafourche
2908.076	9025.277	Terrebonne
2914.168	9030.872	Terrebonne
2916.799	8951.933	Jefferson
2924.549	8946.915	Plaquemines
2925.878	8929.939	St Bernard
2926.176	9141.933	St Mary
2929.602	9221.252	Vermilion
2933.067	9218.065	Vermilion
2937.851	8930.320	St Bernard
2945.548	9323.860	Cameron
2947.625	8933.269	St Bernard
2950.417	8941.346	St Bernard
2952.732	8942.556	St Bernard
3000.810	8954.340	Orleans
3001.179	8952.552	Orleans
3005.228	9011.749	Jefferson
3006.697	8934.568	Orleans

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804, or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0205#059

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