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Executive Orders

EXECUTIVE ORDER MJF 01-12

Chief Information Officer

WHEREAS, each year the state of Louisiana spends several hundred million dollars on information technology (hereafter "IT");

WHEREAS, due to the sizable amount of the state of Louisiana's annual IT expenditures, the interests of the citizens of the state would be best served by the development and formulation of a master IT plan which correlates the IT expenditures of the executive branch to the priorities set forth in the state's strategic business plan for the efficient and effective administration of state government;

WHEREAS, Executive Order No. MJF 98-32 was issued on July 9, 1998, to create the position of chief information officer within the Division of Administration (hereafter "CIO") and to direct the CIO to develop, formulate, and implement a master IT plan and reorganize and consolidate the IT related operations and programs of the executive branch of state government; and

WHEREAS, it is necessary to replace Executive Order No. MJF 98-32 to clarify the duties and functions of the CIO;

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

SECTION 1:

A. The Office of Information Technology and the position of chief information officer (hereafter "CIO") are created and established within the Executive Department, Office of the Governor, Division of Administration.

B. The CIO shall manage and direct the Office of Information Technology.

SECTION 2:

A. The CIO shall provide strategic direction and coordination of information technology (hereafter "IT") operations, programs, activities, and services for all the executive departments, agencies, entities, offices, boards, and/or commissions in the executive branch of state government with the exception of those operating under the authority of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Board of Supervisors of Southern University and Agricultural and Mechanical College, Board of Supervisors of Community and Technical Colleges, or a statewide elected official other than the governor, unless their inclusion is requested, (hereafter "executive agencies").

B. The CIO shall also perform all duties and functions that the commissioner of administration deems necessary for the proper, efficient, and economical administration of IT operations, programs, activities, and services of the executive agencies including, but not limited to, the following:

1. overseeing the implementation of a master IT plan;

2. establishing IT standards and guidelines suitable for statewide application for hardware, software, services, contractual arrangements, consolidation of systems, and/or consolidation of management of systems;

3. reviewing, coordinating, standardizing, and approving IT strategic business technology planning, IT procurement, IT budgeting, and IT personnel;

4. implementing strategic IT planning, including the review and approval of the planning, design, acquisition, and operation of IT systems;

5. assessing the performance of IT systems and technology operations;

6. overseeing and/or coordinating the centralization of technology systems and data processing systems, including consolidation and outsourcing; and

7. overseeing telecommunication (voice data, video, etc.) systems.

SECTION 3: The CIO shall be appointed by, and serve at the pleasure of, the governor.

SECTION 4: The salary of the CIO shall be determined by the commissioner of administration. Support staff, office facilities, and operating expenses for the Office of Information Technology and/or the CIO shall be provided by the Division of Administration.

SECTION 5: No provision in this Order shall be interpreted or construed so as to create any right of action, cause of action, and/or substantive, procedural, and/or equitable right enforceable by, or in favor of, any person or entity against the state of Louisiana, any department, commission, board, entity, agency, office, or political subdivision of the state of Louisiana, and/or any officer or employee thereof.

SECTION 6: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 7: Executive Order No. MJF 98-32, issued on July 9, 1998, is hereby rescinded and terminated.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 13th day of March, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0104#002

EXECUTIVE ORDER MJF 01-13

Information Technology Expenditure Freeze

WHEREAS, the Office of Information Technology and the position of chief information officer (hereafter "CIO") were created within the executive department, Division of Administration, by Executive Order No. MJF 98-32, issued on July 9, 1998, as amended by Executive Order No. MJF 2001-12, issued on March 13, 2001, to provide strategic direction, planning, and coordination of information technology (hereafter "IT") operations, programs, activities, and/or services for all the executive departments, agencies, entities, offices, boards, and/or commissions in the executive branch of state government with the exception of those operating under the authority of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Board of Supervisors of Southern University and Agricultural and Mechanical College, Board of Supervisors of Community and Technical Colleges, or a statewide elected official other than the governor, unless their inclusion is requested, (hereafter "executive agencies");

WHEREAS, the CIO is in the process of developing an IT master plan for the executive agencies which will include IT standards and guidelines for hardware, software, contracts, systems and consolidation and/or management of systems, and encompass the millions of dollars expended annually on IT by the executive agencies (hereafter "master plan");

WHEREAS, the development of the master plan may take several months and, during that period, there is a significant likelihood that sizeable IT expenditures will be made by executive agencies which may be inconsistent with the master plan; and

WHEREAS, prudent money management practices dictate that the best interests of the citizens of the state of Louisiana will be served by preventing fiscal waste by instituting a freeze on new and/or additional IT expenditures over fifteen thousand dollars (\$15,000) until the master plan is adopted and implemented;

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

SECTION 1:

A. Unless specifically exempted by a provision of this Order, no information technology expenditure (hereafter "IT expenditure") described in and/or funded by an appropriation through Act No. 2 of the 2000 Second Extraordinary Session of the Louisiana Legislature (hereafter "Act No. 2") and/or Act No. 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (hereafter "Act No. 11") in an amount in excess of fifteen thousand dollars (\$15,000), alone or in aggregate, (hereafter "IT expenditure freeze") shall be made without the express written approval of the chief information officer (hereafter "CIO").

B. The IT expenditure freeze ordered in subsection 1(A) of this Order shall not apply to

1) IT expenditures which the state of Louisiana and/or an agency, department, office, entity, board, and/or commission in the executive branch of state government is legally obligated to make and/or complete as a result of a fully executed and perfected purchase order, contract, and/or other contractual commitment in effect at the time of issuance of this Order;

2) appropriations in schedules 04 and/or 19 of Act No. 2 and/or Act No. 11, except for appropriations to

(a) the Office of Student Financial Assistance (19-661),

(b) the Louisiana Educational Television Authority (19-662),

(c) the Council for Development of French in Louisiana (19-663), and/or

(d) the Department of Education (19-678);

3) IT items funded through the following budget categories

(a) salaries and/or other forms of compensation and related benefits,

(b) travel,

(c) major repairs, and/or

(d) interagency transfers; or 4) IT expenditures for training.

SECTION 2:

A. The CIO is authorized to grant any agency, department, office, entity, board and/or commission in the executive branch of state government an exemption, on a case by case basis, or by category, from all or a part of the IT expenditure freeze ordered in subsection 1(A) of this Order, as he deems necessary and appropriate. Such an exemption shall be express and in writing.

B. Requests for an exemption from all or part of the IT expenditure freeze ordered in subsection 1(A) of this Order, on a case by case basis, or by category, shall be submitted only by the secretary or head of a department or by the head of an agency, office, entity, board, or commission which is not within a department. Each request shall be in writing and contain full justification for the request. Requests for an exemption for an IT expenditure of one hundred thousand dollars (\$100,000) or more shall also be submitted with a Budget Request Form IT-10.

C. The CIO is authorized to develop guidelines for requests for exemption from all or a part of the IT expenditure freeze ordered in subsection 1(A) of this Order and/or to facilitate the administration of this Order.

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

SECTION 3: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 4: This Order is effective upon signature and shall continue in effect through May 1, 2001, or until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 13th day of March, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0104#001

EXECUTIVE ORDER MJF 01-14

Year 2000 Compliant

WHEREAS, Executive Order No. MJF 96-50, issued on October 17, 1996, as amended by Executive Order No. MJF 98-4, issued on January 22, 1998, ordered all state agencies, commissions, boards, entities, and departments of the state of Louisiana (hereafter "agency") to add a provision that requires year 2000 compliance in all state contracts for the purchase or acquisition of computer, hardware, software, firmware, data processing services, or information systems and/or computer items in excess of five thousand dollars (\$5,000); to evaluate the impact of the year 2000 transition on their agency's existing computer information systems; and to take corrective action to prevent all potential adverse effects that the year 2000 transition may have on their agency; and

WHEREAS, as the state of Louisiana achieved its goals for year 2000 compliance, it is no longer necessary to apply the mandates of Executive Order No. MJF 96-50, as amended by Executive Order No. MJF 98-4, to new state contracts;

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

SECTION 1: Section 3 of Executive Order No. MJF 96-50, issued on October 17, 1996, as amended by Executive Order No. MJF 98-4, issued on January 22, 1998, is amended to provide as follows:

A. The provisions of this Order shall not apply to any contract perfected or entered into prior to October 17, 1996.

B. The provisions of this Order shall not apply to any contract perfected or entered into after March 15, 2001.

SECTION 2: All other paragraphs, sections, and subsections of Executive Order No. MJF 96-50, as amended by Executive Order No. MJF 98-4, shall remain in full force and effect.

SECTION 3: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 4: 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 16th day of March, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0104#004

EXECUTIVE ORDER MJF 01-15

Bond Allocation
Louisiana Local
Government Environmental Facilities and
Community Development Authority

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

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

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

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

WHEREAS, the Louisiana Local Governmental Environmental Facilities and Community Development Authority has requested an allocation from the 2001 Ceiling to be used in connection with a project to provide financing for an expansion of a brew house facility and the acquisition, construction, and installation of brewery equipment for a facility located at 21084 Highway 36, Covington, parish of St. Tammany, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$1,410,000	Louisiana Local Governmental Environmental and Community	Abita Brewing Co., L.L.C.

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before June 25, 2001.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of March, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0104#011

EXECUTIVE ORDER MJF 01-16

Bond AllocationXParish of DeSoto, State of Louisiana

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

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

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

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

WHEREAS, the parish of DeSoto, state of Louisiana, has requested an additional allocation from the 2001 Ceiling to be used in connection with a program to provide financing for the acquisition, construction, and installation of certain sewage and solid waste disposal facilities at the Mansfield pulp and paper mill in the parish of DeSoto, state of Louisiana, located approximately seventeen (17) miles east of Mansfield, parish of DeSoto, and approximately four (4) miles west of Highway 1 on the north side of Highway 509, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$3,900,000	Parish of DeSoto, State of Louisiana	International Paper Company

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 AApplication for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before June 25, 2001.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of March, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0104#012

EXECUTIVE ORDER MJF 01-17

Bond AllocationXIndustrial Development Board
of the City of New Orleans, Louisiana, Inc.

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

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of

allocating bonds subject to the private activity bond volume limits for the calendar year of 2001 (hereafter Athe 2001 Ceiling);

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

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

WHEREAS, the Industrial Development Board of the City of New Orleans, Louisiana, Inc., has requested an allocation from the 2001 Ceiling to be used to finance the acquisition, construction, and installation of a mixed-income housing/commercial development facility project located at 909 Felicite Street, New Orleans, parish of Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$21,000,000	Industrial Development Board of the City of New Orleans, Louisiana, Inc.	CSI Rental, L.L.C.

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 AApplication for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before June 25, 2001.

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

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

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

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

Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of March, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0104#013

EXECUTIVE ORDER MJF 01-18

Bond AllocationXCalcasieu Parish Public Trust Authority

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

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

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

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

WHEREAS, the Calcasieu Parish Public Trust Authority has requested an allocation from the 2001 Ceiling to be used in connection with a program to provide financing for the acquisition, construction, installation, and equipping of an office and a manufacturing facility for Groth Equipment Corporation to be located in the parish of Calcasieu, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

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

Amount of Allocation	Name of Issuer	Name of Project
\$1,000,000	Calcasieu Parish Public Trust Authority	Groth Equipment Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before June 25, 2001.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 27th day of March, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0104#014

EXECUTIVE ORDER MJF 01-19

Louisiana Commission on Marriage and Family

WHEREAS, marriage is more than a civil contract which transforms the contracting man and woman into a legally and publicly recognized partnership, as it is also a special form of social and legal dependence entered for the purpose of founding and maintaining a family;

WHEREAS, studies reveal that societal benefits result from marriage and two-parent families, as married men and women live longer, are healthier, are less depressed, and have fewer heart attacks, diseases, and alcohol related problems than unmarried men and women and, as compared to children born to single and/or of divorced parents, children growing up in two-parent families are more likely to graduate from high school, less likely to have behavioral or emotional problems, less likely to be suspended or expelled from or drop out of school, less likely to contract childhood diseases and/or die, and boys are less likely to use drugs or alcohol or commit suicide, while girls are less likely to become sexually active at an early age;

WHEREAS, children growing up in two-parent families have an advantage over children with single-parents from their access to both parents for emotional, educational, spiritual, and moral support, additional family time, and reinforcement of discipline and family values;

WHEREAS, due to divorce and single-parent births, twenty-three million children in the United States are disadvantaged from growing up in a household without both their parents, including forty-five percent (45%) of the

children born in the state of Louisiana and sixty-five (65%) born in the parish of Orleans to single parents in 1998;

WHEREAS, the future of the state of Louisiana is inextricably tied to the physical, intellectual, emotional, and moral growth of the children of this state and their future is being compromised by the rising rate of single-parenting, which increases the likelihood of juvenile crime, drug use, poverty, child abuse, domestic violence, remedial and special education, and welfare; and

WHEREAS, the interests of the citizens of the state of Louisiana will be best served by creating a commission on marriage and family charged with the duty of advising the governor on the means to improve the social and personal well-being of the people of this state, especially the children, by strengthening marriages and/or family units and reducing the incidence of single-parenting;

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 this state, do hereby order and direct as follows:

SECTION 1: The Louisiana Commission on Marriage and Family (hereafter "Commission") is established within the executive department, Office of the Governor.

SECTION 2: The duties of the Commission shall be as follows:

A. Collect and analyze data on the social and personal effects of marriage, two-parent child-rearing, and single-parent child-rearing, within the state of Louisiana;

B. Review and analyze all laws, rules and regulations, programs and/or policies of the state of Louisiana and/or any of the departments, commissions, boards, agencies, and/or offices in the executive branch thereof, which pertain to taxes, public assistance or benefits, education, childcare and/or public services, for neutrality regarding the institution of marriage so that marriage is not discouraged, discriminated against and/or undermined;

C. Propose and analyze initiatives, programs, policies, and/or incentives that would induce and/or encourage low-income couples and/or welfare recipients to marry;

D. Propose and analyze programs, policies, curriculums, and/or initiatives, especially those that may be funded with Temporary Assistance for Needy Family ("TANF") funds, which encourage the formation of two-parent families, prevent and/or reduce the incidence of single-parent births, strengthen existing marriages that are in jeopardy, encourage postponing child-bearing until after both parents have attained a post-secondary education and/or post-secondary technical/job training; promote responsible fatherhood, and/or motivate fathers to be continuously involved in and supportive of their children and/or families;

E. Propose and analyze programs, policies, curriculums, and/or community-based partnerships that may be utilized and/or developed to teach marriage skills, anger/conflict management skills, money management skills, parenting skills, and/or about the differences in communication styles and emotional needs between men and women in marriage; and

F. Analyze the policy considerations and issues involved in encouraging and/or requiring counseling and/or mediation prior to divorce and providing such counseling and/or mediation with public funds.

SECTION 3: Commencing February 1, 2002, and each February 1st thereafter, the Commission shall submit a detailed annual report to the governor which addresses the issues set forth in Section 2 of this Order.

SECTION 4: The Commission shall be composed of a maximum of twenty-eight (28) members who, unless otherwise specified, shall be appointed by, and serve at the pleasure of, the governor. The membership of the Commission shall be selected as follows:

- A. the governor, or the governor's designee;
- B. the secretary of the Department of Social Services, or the secretary's designee;
- C. the secretary of the Department of Health and Hospitals, or the secretary's designee;
- D. the secretary of the Department of Labor, or the secretary's designee;
- E. the commissioner of higher education, or the commissioner's designee;
- F. the superintendent of the Department of Education, or the superintendent's designee;
- G. the executive director of the Children's Cabinet, Office of the Governor, or the executive director's designee;
- H. the executive director of the Office of Women's Services, Office of the Governor, or the executive director's designee;
- I. two (2) members of the Senate, nominated by the president of the Senate;
- J. two (2) members of the House of Representatives, nominated by the speaker of the House of Representatives;
- K. a representative of the Louisiana Coordinating Council on Domestic Violence;
- L. a representative of the Louisiana Women's Policy and Research Commission;
- M. a member of the Board of Elementary and Secondary Education;
- N. a citizen of the state of Louisiana representing the interests and concerns of two-parent families;
- O. a citizen of the state of Louisiana representing the interests and concerns of single-parent families; and
- P. eleven (11) citizens of the state of Louisiana who have significant academic and/or professional expertise in one (1) or more of the following areas:
 1. marriage education and/or marriage skills training;

2. marriage, family and/or juvenile counseling and/or mediation;
3. education;
4. law;
5. public health;
6. sociology, social science, and/or social work; and
7. community programs and/or assistance.

SECTION 5: The governor shall appoint the chair of the Commission. All other officers, if any, shall be elected by the membership of the Commission.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: Support staff, facilities, and resources for the meetings of the Commission shall be provided by the Department of Social Services.

SECTION 8:

A. Commission members shall not receive additional compensation or a per diem for serving on the Commission.

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

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 10: 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 6th day of April, 2001.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0104#031

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Sweetpotato Weevil Quarantine (LAC 7:XV.Chapter 1)

In accordance with the R.S. 3:1652 and 3:1732 and the emergency rule provisions of the Administrative Procedure Act, R.S. 49:953 B, the Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, is declaring an emergency due to the adverse damage the sweetpotato weevil is inflicting upon Louisiana's sweet potato industry.

The total value of Louisiana's sweet potato industry is over \$125 million per year. Louisiana's sweet potatoes are consistently considered, on a national basis, to be choice sweet potatoes. As a consequence, Louisiana sweet potato farmers can command a premium for their sweet potato crops.

Almost half of Louisiana's sweet potato crop is produced in areas infested with the sweetpotato weevil. The population of the sweetpotato weevil has increased to an alarmingly high level. The population increase is such that a substantial portion of the sweet potato crop in weevil-infested areas is in great jeopardy. Failure of the sweet potato crop in these areas will mean a loss of approximately \$60 million to Louisiana's agricultural economy.

The rules and regulations being adopted allows current methods and technology to be used in sweet potato quarantine programs and will allow the Department to develop an eradication program in infested areas of the state.

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

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter A. General Plant Quarantine Provisions

§103. Definitions

Certificate Permit—a written document, stamp, or other form of identification approved by the department, which authorizes the movement, sale or offer for sale or storage of plants, plant products or parts thereof or regulated materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:317 (April 1985), LR 27:

Subchapter C. Sweetpotato Weevil Quarantine

§133. Applicability of General Quarantine Regulations

A. Sweet potato plants, plant products and parts thereof and host materials for the sweetpotato weevil are subject to

all pertinent provisions of the general quarantine regulations contained in Subchapter A and to the regulations contained in this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992), LR 27:

§135. Definitions Applicable to this Subchapter

A. In addition to definitions found in §103, the following definitions shall also be applicable to this subchapter.

Commercial Kiln and Storage Houses—any buildings where sweet potatoes produced by different farmers or growers are assembled and stored.

Compliance Agreement—a written agreement between the department and a sweet potato dealer in which the dealer agrees to comply with the General Plant Quarantine Regulations, the provisions of this subchapter and any conditions specified in the agreement.

Farm Kiln or Storage House—a building or enclosed structure located on a farm in which sweet potatoes grown solely on said farm are stored.

Non-Sweet Potato Area—any area in which the planting, bedding, growing, or storing of any material which acts as a host for the sweetpotato weevil is prohibited.

Platform Inspection—a visual examination by an inspector of sweet potatoes that have been cleaned and packed or containerized prior to the issuance of a certificate permit.

Processing Plants—canning, freezing and dehydrating plants.

Sweet Potato Dealer—a person engaged in the growing for sale, offering for sale, moving or brokering of sweet potatoes, except as noted in §147C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992), LR 27:

§137. Issuance and Use of Certificate Permits, Certificate Permit Tags, and Fumigation Certificates for the Movement of Regulated Material

A. From Sweetpotato Weevil-Free Designations

1. Green certificate permit tags will, upon request to the department, be issued to any person whose growing, packing and storage facilities are designated by the department as sweetpotato weevil-free and who meet the following conditions:

a. The person has a valid sweet potato dealer's permit as required by these regulations.

b. The properties or premises of the person, where regulated materials are grown or stored, have been trapped or surveyed for sweetpotato weevil during the growing season in a manner approved by the department and have

been found by the department to be free from sweetpotato weevil.

2. Certificate permits authorizing the movement of regulated material from sweetpotato weevil-free areas or properties or premises to points within and outside of Louisiana will be issued by the department under the following conditions.

a. The person moving the regulated material has a valid sweet potato dealer's permit as required under these regulations.

b. The person has signed a compliance agreement with the department specifying the handling of the regulated material to be moved and the proper use of the certificate permits.

3. Green certificate permit tags shall be attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such. green certificate permit tags shall not be reused.

4. Regulated material moving into areas or properties or premises of Louisiana or into a portion of any other state designated as sweetpotato weevil-infested, unless moving under the provisions set forth in §139.D.2.c, shall not be moved back into any Louisiana sweetpotato weevil-free designated area and shall lose its sweetpotato weevil-free status.

B. From Sweetpotato Weevil-Infested Designations

1. Pink certificate permit tags will, upon request to the department, be issued to any person whose growing, packing and storage facilities are designated by the department as sweetpotato weevil-infested and who possess a valid sweet potato dealer's permit as required under the provisions of these regulations.

2. Certificate permits authorizing the movement of regulated material from or within sweetpotato weevil-infested areas or properties or premises will be issued by the department under the following conditions.

a. The person has a valid sweet potato dealer's permit as required under the provisions of these regulations.

b. The person has signed a compliance agreement with the department specifying the handling of the regulated material to be moved and the proper use of the certificate permits.

c. The regulated material shall not be moved from a sweetpotato weevil infested designated area into a sweetpotato weevil-free designated area, or to any state which may prohibit entry of such regulated material, unless fumigated under the provisions set forth in §138.

d. If regulated materials are moved, then the regulated materials shall be completely enclosed in the vehicle body or covered tightly by tarpaulins or other means approved by the department in advance of movement.

e. Certificate permits attesting to regulated material fumigation and authorizing the movement of regulated material from areas or properties or premises designated as sweetpotato weevil-infested will be issued when such regulated material is inspected, found apparently free of the sweetpotato weevil and fumigated under the provisions set forth in §138 hereof.

3. Pink certificate permit tags shall be attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state

which may require such tags. Pink certificate permit tags shall not be reused.

C. No regulated material may be moved or shipped within or out of Louisiana unless accompanied by a valid certificate permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 14:527 (August 1988), LR 16:600 (July 1990), LR 18:702 (July 1992), LR 27:

§138. Fumigation and Maintenance of Weevil-free Status of Regulated Materials Originating From Designated Sweetpotato Weevil-Infested Areas or Properties or Premises

A. Fumigation Measures. Persons operating storage houses and/or packing sheds who desire to move regulated materials from areas or properties or premises designated by the department as sweetpotato weevil infested into areas or properties or premises designated as sweetpotato weevil-free, or to any state which may prohibit entry of such regulated material, shall:

1. enlist the services of a certified fumigator to perform the fumigation;

2. possess a valid fumigation certificate issued by a certified fumigator, indicating that the fumigation was done in accordance with all fumigant label requirements and in a manner approved by the department. Each fumigation certificate shall state the conditions and dates of fumigation;

3. fumigate with fumigants labeled for use on the regulated material and formulated and used in a manner and at a concentration approved by the department.

B. Maintenance of Weevil-Free Status. Regulated materials shall be maintained in such a manner that the integrity of their weevil-free status following fumigation is retained.

1. Fumigation Chamber. Fumigated regulated materials may be stored in a fumigation chamber approved by the department, designed specifically for fumigating and storing regulated materials. The chamber shall be airtight with a self contained, screened exhaust system in place; shall possess doors that seal; shall contain a minimum of 1000 cubic feet of space, and larger chambers must be designed to contain an even multiple of 1000 cubic feet; shall be cleaned of all sweet potatoes, parts, and any other regulated materials between periods of fumigation and storage.

2. Tractor trailer rigs designed and constructed for use in fumigations may be used in place of a fumigation chamber provided the truck body meets the fumigation chamber requirements outlined above, with the exception of the cubic feet requirement. A variation in truck body cubic feet shall be allowed provided the variation allows adequate volume to fumigate according to the fumigant label. All entrances or openings on the truck body shall be sealed in a manner approved by the department, prior to shipment, by the use of not more than two seals.

3. If an approved fumigation chamber or tractor-trailer rig is not used then fumigation and storage of regulated materials shall be conducted as follows:

a. Regulated materials shall be placed in a storage area separate from and in no way connected to any other

storage or packing areas containing non-fumigated regulated materials. Storage area must be cleaned of all sweet potatoes, parts, and any other regulated materials between periods of storage.

b. The storage area shall have been treated with an appropriately labeled chemical and in a manner approved by the department prior to initial storage of sweet potatoes harvested and fumigated that season and the storage area shall not be used to store any non-fumigated regulated materials.

c. Fumigation shall be accomplished by tenting the regulated material with a sealed tarpaulin or other suitable sealable material of adequate thickness and construction for use in fumigation with commercial fumigants.

d. Regulated materials shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material prior to, during and following fumigation. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes.

4. Packing House or Shed. Sweet potatoes fumigated, screened and stored according to these regulations may be washed and packed in the same packing house or shed as non-fumigated sweet potatoes, provided:

a. The packing house or shed and all packing equipment is cleaned of all sweet potatoes, parts, and any other regulated materials prior to washing and packing of fumigated sweet potatoes.

b. Packing house or shed is treated with an appropriately labeled chemical and in a manner approved by the department prior to each packing period involving fumigated sweet potatoes.

5. All packing boxes and other packing and shipping materials shall be held in a storage area separate from and in no way connected to any other non-fumigated materials, or be fumigated and stored according to these regulations.

6. Fumigated sweet potatoes washed and packed under approved conditions must be shipped within seven days of packing. Washed and packed sweet potatoes shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material immediately following packing and must remain enclosed until shipment. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes. Fumigated, screened sweet potatoes awaiting shipment shall be labeled with the dates of fumigation.

7. Trucks or other vehicles used to ship fumigated sweet potatoes from sweetpotato weevil infested areas or properties or premises shall be cleaned of all sweet potatoes, parts, and any other regulated materials prior to hauling fumigated sweet potatoes. Vehicle compartments previously containing shipments of non-fumigated regulated materials that were moved from or within designated sweetpotato weevil infested areas or properties or premises must be treated with an appropriately labeled chemical and in a manner approved by the department prior to loading fumigated sweet potatoes for shipment.

8. No non-fumigated sweet potatoes shall be stored, loaded or shipped with fumigated sweet potatoes.

C. Issuance of Certificate Permit Tags. Manila certificate permit tags will be issued by the department to persons meeting all sweetpotato weevil quarantine regulation and

compliance agreement requirements and who desire to ship regulated materials that have been properly fumigated from areas or properties or premises designated by the department as sweetpotato weevil infested into areas or properties or premises designated as sweetpotato weevil-free, or to any state which may prohibit entry of such regulated material. Permit tags shall be attached to or within each container in a load or shipment of fumigated sweet potatoes and shall not be reused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 16:600 (July 1990), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:703 (July 1992), LR 27:.

§139. Effect of Quarantine for Sweetpotato Weevil

A. Sweetpotato Weevil-Free Designations of Louisiana

1. The growing or storing of regulated material, including seed beds and field plantings of sweet potatoes is prohibited in areas or properties or premises declared to be non-sweet potato areas, except under special permit issued by the department. Non-sweet potato areas may include but are not limited to sweetpotato weevil-infested properties or premises, as determined by survey or trapping procedures conducted in a manner approved by the department, located in those areas of the state designated by the department as sweetpotato weevil-free.

2. Any regulated material found in non-sweet potato areas shall be disposed of in a manner approved by the department.

3. Regulated materials, properties or premises found to contain sweetpotato weevil may be subject to required treatments, handling restrictions, or destruction as determined by the department.

B. Sweetpotato Weevil-Infested Designations of Louisiana

1. Owners or persons in charge of properties or premises supporting active infestations of sweetpotato weevil within those areas or properties or premises of the state designated as sweetpotato weevil-infested may save their own seed sweet potatoes, provided that:

a. such seed sweet potatoes are graded in a manner sufficient to render them apparently free of the sweetpotato weevil;

b. such seed sweet potatoes are properly treated in a manner approved by the department at the time of storage;

c. no seed sweet potatoes, plants, vines and/or cuttings shall be sold, offered for sale or moved except those which have been inspected by the department and found to be apparently free of the sweetpotato weevil.

2. Regulated materials, properties or premises supporting active infestations of sweetpotato weevil within those areas of the state designated as sweetpotato weevil-infested may be subject to required treatments, handling restrictions, or destruction as determined by the department.

C. Statewide

1. Sweet potatoes in seedbeds shall be destroyed within 15 days after such potatoes have served their purpose, and not later than July 15 of each year. Destruction shall be in such a manner that all sweet potatoes, plants and parts are brought to the soil surface and exposed, or in such other manner as may be prescribed by the department.

2. All sweet potato fields shall be harvested by December 1 of each year by the owner of the crop. Such fields shall be destroyed within 15 days after harvesting, and not later than December 15 of each year. Destruction shall be in such a manner that all remaining sweet potatoes, plants and parts are brought to the soil surface and exposed, or in such other manner as may be prescribed by the department.

3. Sanitary Measures. Persons operating packing sheds, assembly points, processing plants and/or storage houses shall:

a. not permit loose sweet potatoes or parts of sweet potatoes to accumulate in or around any structure in which sweet potatoes are cleaned, packed, processed or stored;

b. render waste sweet potatoes and sweet potato parts unsuitable for or unavailable to the sweetpotato weevil by processing or disposal in a manner approved by the department. If it is necessary to haul host material from the place of accumulation for processing or disposal, such hauling shall be done in an approved tight-body truck or container and covered with a tarpaulin when necessary;

c. not allow sweet potatoes, sweet potato crowns and roots or parts thereof to be carried away from storage houses, processing plants, packing sheds or assembly points in water used in washing sweet potatoes;

d. not permit the sale, offer for sale or movement to any person or farm of culled sweet potatoes or sweet potato parts, except under special permit issued by the department; and

e. not move empty containers or equipment used in the handling of sweet potatoes from packing sheds or processing plants unless cleaned free of all host materials.

D. Regulated Material From Other States

1. Sweet potatoes, sweet potato plants, plant products and parts thereof, host materials, and containers and equipment used in handling sweet potatoes may not enter Louisiana unless accompanied by valid certification from the state of origin.

2. A valid state-of-origin certificate permit tag shall be attached to or placed within each container in a load of sweet potatoes entering Louisiana.

a. Only regulated material certified as grown, stored and inspected in a portion of the state of origin designated as sweetpotato weevil-free, or fumigated in accordance with these regulations, shall enter those areas or properties or premises of Louisiana designated sweetpotato weevil-free unless moving under the provisions of this Section.

b. Regulated material grown, stored or inspected in a portion of the state of origin designated sweetpotato weevil-infested or sweetpotato weevil regulated, and inspected and found apparently free of sweetpotato weevil, shall enter only those areas or properties or premises of Louisiana designated sweetpotato weevil-infested unless moving under the provisions of this Section.

c. Movement of regulated material from sweetpotato weevil-infested or sweetpotato weevil regulated areas or properties or premises through those areas or properties or premises of Louisiana designated sweetpotato weevil-free is prohibited, except when moved by common carrier with a through bill of lading; or, if moved by truck or any other conveyance, said conveyance shall be sealed by the state of origin, shall have no additional regulated material added to the shipment, and shall not be unloaded

within designated weevil-free areas or properties or premises of Louisiana.

d. Regulated material originating in areas or properties or premises designated sweetpotato weevil-free that is moved into any area or property or premise designated sweetpotato weevil-infested or sweetpotato weevil regulated, except under the provisions of this Section, shall not be moved back into any designated sweetpotato weevil-free area or property or premise and shall lose its sweetpotato weevil-free status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:704 (July 1992), LR 27:

§141. Handling, Storage and Processing of Sweet Potatoes Within Those Areas or Properties or Premises of the State Designated Sweetpotato Weevil-Infested

A. Sweet Potatoes Treated with Approved Chemicals. There shall be no date limit on the shipment of sweet potatoes from those areas or properties or premises of the state designated sweetpotato weevil-infested, provided:

1. sweet potatoes to be marketed after April 1 following the year of production must be treated before February 28 with a chemical or chemicals labeled for sweet potato use and approved by the department; and

2. sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the department as soon as possible after final disposal of a crop of sweet potatoes.

B. Sweet Potatoes Not Treated with Approved Chemicals and/or Heavily Infested with Sweetpotato Weevil. Unprocessed sweet potatoes shall not:

1. be held in processing plants, warehouses or other storage houses on properties or premises supporting active infestations of sweetpotato weevils;

2. be moved in any manner except as provided for in §139.C.3.b; or

3. be sold or offered for sale after April 1 following the year of production, except seed sweet potatoes that are apparently free of sweetpotato weevils and have been properly treated as prescribed in this Section.

C. This provision shall apply to all sweet potatoes even though previously inspected and certified for sale and movement.

D. Sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the department unless a special permit extending the deadline is issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:

§143. Fees

A. A fee of four cents per bushel shall be charged for each bushel of sweet potatoes moved or shipped within or out of Louisiana.

B. The fee charged for sweet potatoes moving to processing plants shall be collected on the basis of the amount of purchase less 10 percent for breakdown and shrinkage while in storage.

C. A fee of five cents per thousand shall be charged for vines, plants, slips or cuttings moved or shipped within or out of Louisiana.

D. Method of assessing fees and time when fees are to be assessed.

1. Fresh Market

a. Fees will be assessed based on average marketable yield per acre for each acre of sweet potatoes planted. The Louisiana Sweet Potato Advertising and Development Commission will determine the average yield.

b. The total acres planted by each producer will be officially determined through the use of global positioning technology or other, similarly technical means, under departmental oversight. Each producer will be provided a mapped copy of his production fields and the acres of each field.

c. One-half of the total fee assessment shall be paid on or before November 1 of each year and the remaining balance shall be paid on or before March 15 of each year.

2. Processing plants are assessed at the time the sweet potatoes are moved into a plant for processing or packed to be shipped as non-processed potatoes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655, R.S. 3:1732 and R.S. 3:1734.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:77 (February 1989), LR 18:705 (July 1992), LR 27:

§145. Penalties for Violation of Sweetpotato Weevil Quarantine

A. Any person violating any portion of the sweetpotato weevil quarantine regulations, or any portion of a signed compliance agreement with the department, may be called to an adjudicatory hearing held in accordance with the Administrative Procedure Act and may be subject to a civil penalty of not more than \$5,000 per each violation per day. Proportionate costs of the hearing may be assessed against the violator. The amount of these costs shall be limited to attorneys' fees as charged to the department for the actual hearing and preparation for the hearing; and actual cost of departmental personnel time in processing violations.

B. A sweet potato dealer's permit may be suspended, revoked or placed on probation if the holder thereof fails to comply with the provisions of these regulations or with the provisions of a signed compliance agreement with the department, subject to a finding in support of such action in a properly conducted adjudicatory hearing.

C. Sweet potato plantings found in a non-sweet potato area may be destroyed at the expense of the person or persons responsible for the plantings.

D. Regulated material found in violation of these regulations or in violation of a signed compliance agreement with the department may be destroyed and/or disposed of in

a manner approved by the department at the expense of the person or persons responsible for the regulated material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:

§147. Sweet Potato Dealer's Permit

A. All persons, including sweet potato growers and farmers, commercially growing, selling or offering for sale sweet potatoes shall not grow, move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes without a valid Sweet Potato Dealer's Permit.

B. Applicants for Sweet Potato Dealer's Certificate Permit shall:

1. complete and file the application required by the department, which shall set forth the following conditions:

a. a guarantee to reimburse any purchase price of sweet potatoes which are confiscated because of sweetpotato weevil infestation or unauthorized sale, offer for sale or movement;

b. an agreement to permit, at the dealer's cost, the disposal or destruction by an inspector of the department or the return to point of origin of any sweet potatoes sold, offered for sale, moved or moving without authorization, or infested with sweetpotato weevil.

c. a signed agreement to comply with any and all sweet potato quarantine regulations and any conditions specified in the agreement.

C. The provisions of this Section do not apply to retail grocers and other retail outlets selling or offering for sale sweet potatoes possessing a valid certificate permit and/or certificate permit tags indicating that the sweet potatoes have been inspected, and that are sold or offered for sale directly to the consumer from a permanent building at a permanent location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1653, R.S. 3:1655, R.S. 3:1732 and R.S. 3:1735.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:

Bob Odom
Commissioner

0104#009

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Meat Labeling
(LAC 7:XXXV.153)

The Commissioner of Agriculture and Forestry hereby adopts the following emergency rules for the implementation of regulations governing the labeling of meat in accordance with R.S. 3:3B, R.S. 51:614 and the emergency rule provisions of R.S. 49:953 B, in the Administrative Procedure Act.

The Louisiana Legislature, by Act 487 of the 1999 Regular Session, enacted R.S. 51:614 to require the labeling of meat and to provide for the enforcement thereof. As a result of the current outbreak of foot and mouth disease in European livestock and the fact that meat consumed in the United States, including Louisiana, is imported from foreign countries there is an imminent danger that Louisiana citizens will substantially decrease their consumption of meat, including meat raised or processed in Louisiana, if they cannot identify the source of the meat.

Louisiana's livestock industry has suffered severe financial distress as a result of the four-year drought that this state has experienced. The threat of a substantial decline in the consumption of meat poses an imminent peril to Louisiana's livestock industry. Additional economic losses threaten the continuation of the livestock industry in Louisiana. The livestock industry in Louisiana is a vital part of Louisiana's economic base. Therefore, financial deterioration and subsequent failures in the livestock industry pose an imminent peril to Louisiana's economy and to the welfare of the citizens of Louisiana, especially when it occurs in the midst of an economic slowdown.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary in order to immediately implement and enforce the labeling of meat in Louisiana as to country of origin.

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

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§135. Meat Labeling

A. As used in this Section the following terms are defined as:

1. *American*—any meat that is produced in the United States or which is processed in the United States at a federal or state approved processing or repacking plant for distribution at wholesale.

2. *Blend*—any combination of American and foreign meat.

3. *Imported*—any meat produced in a foreign country that has not been processed at a federal or state approved processing plant for distribution at wholesale.

B. Unless otherwise provided in this Section, all processed or unprocessed meat sold in Louisiana, whether fresh or frozen, shall indicate the meat's country of origin.

1. The country of origin or designations *American*, *imported* or *blend* of imported and American meats shall be indicated in clear and conspicuous letters in English.

2. All meat shall be labeled with one of the following designations, *American*, *imported* or *blend* of imported and American meats or shall contain the name of the country of origin preceded by the "product of". Example: Meat produced in the United States would be labeled "American" or "Product of U.S.A."

3. Meat displayed for sale or sold unwrapped shall contain the proper designation as to the country of origin on the meat, or on the immediate container or wrapping, or on a sign included with the display.

4. If an establishment sells only American meat, then a placard indicating that only American meat is sold will be sufficient to meet the requirements of these regulations.

C. The provisions of this Section shall not apply to prepared meat that is sold at retail for consumption on the premises and fully cooked meat as defined by the United States Department of Agriculture Food Safety Inspection Service rules and regulations.

1. The Commissioner of Agriculture and Forestry, the Weights and Measures Commission and the Department of Agriculture and Forestry shall have the power and authority granted under the Weights and Measures Law to enforce the provisions of this Section.

D. The penalty for any violation of this Section shall be as provided in R. S. 51:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 27:

Bob Odom
Commissioner

0104#010

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Workforce Development and Training Program (LAC 13:III.Chapter 3)

The Department of Economic Development, Office of the Secretary, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend rules of the Louisiana Workforce Development and Training Program effective April 2, 2001. These rules will prescribe in accordance with LAC 13:III. Chapter 3. This Emergency Rule shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

The Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish these rules because of a recognized immediate need to remove the requirement that a sponsoring entity be a part of the award. The contract will be between the department and the company.

This emergency action is deemed necessary to remove the inherent conflict of having the sponsoring entity monitor the contract. The sponsoring entity needs to work closely with these companies to enhance job opportunities in their respective areas.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 3. Workforce Development and Training Program

§ 301. Purpose

A. The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of improving the competitiveness and productivity of Louisiana's

workforce and business community; and, assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:242 (February 1999), LR 27:

§ 303. Definitions

Applicant—the entity requesting and receiving a training award from DED under this program.

Award—funding approved under this program for eligible training activities.

Contract—a legally enforceable agreement between DED and the applicant.

DED—Louisiana Department of Economic Development.

Program—the Workforce Development and Training Program.

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:242 (February 1999), LR 27:

§ 305. General Principles

A. The following principles will direct the administration of the Workforce Development and Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;

2. awards must reasonably be expected to be a significant factor in companies location, investment, and/or expansion decisions;

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

4. evaluations for the enhancement of existing Louisiana businesses that are adding locations within the state will be conducted with the same procedures and with the same priority as the recruitment of new businesses to the state;

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

6. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and

7. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:242 (February 1999), LR 27:

§ 307. Program Descriptions

A. This program provides two types of training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be

created by the companies. The training to be funded can include:

1. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a portion of the trainees;

2. on-the-job (and/or upgrade) training for employees that is needed to bring the employees up to a minimum skill and/or productivity level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:242 (February 1999), LR 27:

§ 309. Eligibility

A. An eligible applicant is an employer that seeks customized training services to provide training in a particular industry.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:243 (February 1999), LR 27:

§ 311. Criteria

A. General (These apply to all training programs administered under these rules.)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants locating in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. If a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

4. Number of jobs to be retained and/or created as stated in the application will be adhered to and will be made an integral part of the contract.

B. Pre-Employment, Upgrade and On-the-Job Training

1. Applicants must create at least 10 net new jobs in the state, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 employees.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR

23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:243 (February 1999), LR 27:

§ 313. Application Procedure

A. DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;
3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and
4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:243 (February 1999), LR 27:

§315. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. evaluate the importance of the proposed training to the economic well-being of the state and local communities;
2. identify the availability of existing training programs which could be adapted to meet the employer's needs;
3. verify that the business will continue to operate during the period of the contract; and
4. determine if employer's training plan is cost effective.

B. A cost-benefit analysis tailored to the applicant's request shall be conducted by DED to determine the net benefit to the state of the proposed training award.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Economic Development;
2. the Governor; and
3. the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:243 (February 1999), LR 27:

§ 317. General Award Provisions

A. Award Agreement

1. A contract will be executed between DED and the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, the time required for job training and job creation.

2. DED will disburse funds to the applicant in a manner determined by DED.

3. DED will oversee the progress of the training and reimburse the applicant from cost reports submitted by the applicant on a form provided by DED. DED, at its discretion, may request the company to submit additional information.

4. Funds may be used for training programs extending up to two years in duration.

5. Contracts issued under previous rules may be amended to reflect current regulations as of the date of the most recent change, upon request and approval of the applicant and the secretary.

B. Funding. Award may not exceed \$500,000 for total amount.

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include the following:

- a. instruction costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;
- b. travel costs: travel for trainers, training coordinators and trainees.
- c. materials and supplies costs: training texts and manuals, audio/visual materials, raw materials for manufacturer's training purposes only and Computer Based Training (CBT) software; and
- d. other costs: when necessary for training, such as facility rental.

3. Training costs ineligible for reimbursement include:

- a. trainee wages and fringe benefits;
- b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless owned by a public training provider;
- c. out-of-state, publicly supported schools;
- d. employee handbooks;
- e. scrap produced during training;
- f. food, refreshments; and
- g. awards.

4. Training activities eligible for funding consist of:

- a. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;
- b. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and
- c. skills pertaining to instructional methods and techniques used by trainers (e.g., train-the-trainer activities).

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of required documentation to DED by applicant. Funds will not be available for reimbursement

until a training agreement between the applicant and DED has been executed. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement. However, reimbursements can only be provided upon final execution of a contract with the Department of Economic Development.

2. Companies will be eligible for reimbursement at 90 percent until all contracted performance objectives have been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

D. Compliance Requirements

1. Applicants shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company knowingly files a false statement in its application or in a progress report, the company shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January, 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December, 1997), LR 25:243 (February 1999), LR 27:

§319. Contract Monitoring

A. All monitoring will be done by DED. A portion of the fiscal year's appropriation, up to 5 percent or a maximum of \$200,000, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

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

Don J. Hutchinson
Secretary

0104#015

DECLARATION OF EMERGENCY

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

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

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

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

This Declaration of Emergency is effective March 9, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial AssistanceXHigher

Education Savings

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - C.2. ...

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGS) Fund earned an interest rate of 6.83 percent.

D. - R. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:

Mark S. Riley
Assistant Executive Director

0104#003

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS) Definitions and Eligibility (LAC 28:IV.301 and 703)

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

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

This Declaration of Emergency is effective March 9, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part IV. Student Financial AssistanceXHigher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

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

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 27:36 (January 2001), LR 27:

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

§703. Establishing Eligibility

A. - G.1.d. ...

2. A student who enters an eligible college or university early admissions program prior to graduation from high school shall be considered a first-time freshman, as defined in §301, not earlier than the first semester following the Academic Year (High School) in which the student graduated. A student who enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student actually graduated.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:

Mark S. Riley
Assistant Executive Director

0104#002

DECLARATION OF EMERGENCY

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

Home and Community Based Services Waiver Program Children's Choice Crisis Designation

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule implementing a Home and Community Based Services waiver called Children's Choice effective January 15, 2001 (*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 Mentally Retarded/Developmentally Disabled (MR/DD) waiver waiting list may choose to either apply for Children's Choice

or have the child remain on the MR/DD waiting list. Families will be offered this choice in the order that the child's name was added to the MR/DD waiver waiting list. A subsequent rule was adopted transferring responsibility for the waiting list to the Bureau of Community Supports and Services and setting forth provisions for the orderly transition from regional waiting lists to a single statewide request for services registry to be maintained in state office. The rule also changed the name of the waiting list to the MR/DD waiver request for services registry (*Louisiana Register*, Volume 27, Number 2).

Children's Choice is designed to provide an attractive alternative to the MR/DD waiver. Services are designed to allow greater flexibility to enhance family functioning. Another unique feature is portability of the child's waiver slot: children who "age out" (reach their nineteenth birthday) will transfer with their waiver slot into a waiver that serves adults with developmental disabilities. In a continuing effort to address the concerns of families who will consider choosing Children's Choice, the department now proposes to adopt provisions for additional supports outside the \$7,500 cap on waiver service expenditures should certain catastrophic events occur after a child has been found eligible for Children's Choice. This Emergency Rule is being adopted to continue the provisions contained in the January 15, 2001 rule.

Emergency Rule

Effective May 16, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following regulations regarding crisis provisions for children who participate in Children's Choice.

Families must choose to either accept Children's Choice services or remain on the MR/DD waiver request for services registry. This is an individual decision based on a family's current circumstances. In the event that a family chooses Children's Choice for their child and later experiences a crisis that increases the need for paid supports to a level that cannot be accommodated within the \$7,500 cap on waiver expenditures, they may request consideration for a crisis designation. A crisis is defined as a catastrophic change in circumstances rendering the natural and community support system unable to provide for the health and welfare of the child at the level of benefits offered under Children's Choice. The following procedure has been developed to address these situations.

Crisis Designation Criteria

In order to be considered a crisis, one of the following circumstances must exist:

1. death of the caregiver with no other supports (i.e., other family) available; or
2. the caregiver incapacitated with no other supports (i.e., other family) available; or
3. the child is committed to the custody of DHH by the court; or
4. other family crisis with no caregiver support available, such as abuse/neglect, or a second person in the household becomes disabled and must be cared for by same caregiver, causing inability of the natural caregiver to continue necessary supports to assure health and safety.

Provisions of a Crisis Designation

Additional services (crisis support) outside of the waiver cap amount may be approved by the Bureau of Community Supports and Services (BCSS) State Office. Crisis designation is time limited, depending on the anticipated duration of the causative event. Each request for crisis designation may be approved for a maximum of three months initially, and for subsequent periods of up to three months.

When the crisis designation is extended at the end of the initial duration (or at any time thereafter), the family may request the option of returning the child's name to the original application date on the MR/DD waiver request for services registry when it is determined that the loss of caregiver and lack of natural or community supports will be long-term or permanent. This final determination will be made by BCSS. Eligibility and services through Children's Choice shall continue as long as the child meets eligibility criteria.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, Box 91030, Baton Rouge, Louisiana 70821-9030. She is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0104#040

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies Provider Based Rural Health Clinics

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule to establish the provisions governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24, Number 3). This March 20, 1998 rule was subsequently amended to include the definition of a teaching hospital as required by Act 19 of the 1998 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 25, Number 5).

The department then adopted an emergency rule with an effective date of June 21, 1999 to establish an additional disproportionate share hospital group for state fiscal year 1999 only, for large public non state rural hospitals that had

at least 25 percent Medicaid inpatient days utilization (*Louisiana Register*, Volume 25, Number 6). The May 20, 1999 rule was later amended to revise the qualifying criteria for small rural hospitals as required by Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3). The Department later adopted an emergency rule with an effective date of October 21, 2000 to establish an additional disproportionate share hospital group for state fiscal year 2001 only, for public non state hospitals with no more than 60 licensed beds as of July 1, 2000 (*Louisiana Register*, Volume 26, Number 10).

The bureau provides coverage for rural health clinic services under the Medicaid Program. Currently, the uncompensated costs of rendering health care services in a provider based rural health clinic are not considered in the calculation of the hospital's uncompensated costs. The Bureau has now determined that it is necessary to include the uncompensated costs of a provider based rural health clinic in the calculation of the rural hospital's uncompensated costs. This action is being taken to enhance federal revenue. It is estimated that the expenditures necessary to implement this proposed emergency rule will be approximately \$1,668,000 for state fiscal year 2000-01.

Emergency Rule

Effective April 10, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the disproportionate share payments to small rural hospitals by including the uncompensated costs of health care services provided in a rural health clinic that is licensed as part of the small rural hospital in the calculation of the hospital's uncompensated costs. Qualifying hospitals must meet the qualifying criteria contained in section II. E and either section II. A, B, or C of the May 20, 1999 rule. In addition, qualifying hospitals must meet the definition for a small rural hospital contained in III. B.1. of the March 20, 2000 rule. Qualifying hospitals must maintain a log documenting the provision of uninsured care in the rural health clinic as directed by the Department. All other provisions contained in the May 20, 1999 rule shall remain in effect as previously promulgated.

The disproportionate share payments to each qualifying rural hospital shall continue to be equal to that hospital's pro rata share of uncompensated costs for uninsured patients only for all hospitals meeting these criteria for the cost reporting period ended during the period April 1, 2000 through March 31, 2001, multiplied by the amount set for this pool. Payment will not exceed each qualifying hospital's actual uncompensated costs for uninsured patients or the amount appropriated. If the cost reporting period is not a full period (twelve months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

Implementation of this rule shall be subject to the approval of the Health Care Financing Administration.

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

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

David W. Hood
Secretary

0104#037

DECLARATION OF EMERGENCY

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

Durable Medical Equipment—Ostomy Supplies Reimbursement Increase

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously reimbursed certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at either 80 percent of the Medicare Fee Schedule, 80 percent of the Manufacturer's Suggested Retail Price (MSRP) or billed charges, whichever was the lesser amount. As a result of a budgetary shortfall, the reimbursement for these durable medical equipment items was reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the MSRP or billed charges, whichever was the lesser amount (*Louisiana Register*, Volume 27, Number 1). The Bureau now proposes to increase the reimbursement for ostomy supplies identified by specific HCPC codes to either 80 percent of the Medicare Fee Schedule, 80 percent of the MSRP or billed charges, whichever is the lesser amount.

If an item is not available at 80 percent of the Medicare Fee Schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community. This action is being taken in order to protect the health and well being of Medicaid recipients by ensuring access to durable medical equipment supplies and services. It is estimated that the implementation of this emergency rule will increase expenditures in the Durable Medical Equipment Program by approximately \$16,236 for state fiscal year 2000-2001.

EMERGENCY RULE

Effective for dates of service April 6, 2001 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for ostomy supplies identified by specific

Health Care Financing Administration Common Procedure Codes. The reimbursement is increased to 80 percent of the Medicare Fee Schedule, 80 percent of the Manufacturer's Suggested Retail Price (MSRP) or billed charges, whichever is the lesser amount, for the following HCPC codes:

Ostomy Supplies
A4360-A4421
A5051-A5149
K0137-K0139
K0278-K0280
K0421-K0437

If an item is not available at 80 percent of the Medicare Fee Schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

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

David W. Hood
Secretary

0104#039

DECLARATION OF EMERGENCY

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

**Inpatient Hospital Services Reimbursement
Methodology—Well Baby Care**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register, Volume 20, Number 6*). Under the prospective reimbursement methodology, five general peer groups for hospitals and three peer groups for specialty hospital services were established for the reimbursement of inpatient hospital services. In addition, peer groups were established for the reimbursement of the following high intensity inpatient services: Neonatal Intensive Care, Pediatric Intensive Care, Burn Care and Transplants.

Four levels of Neonatal Intensive Care based on severity of illness and intensity of service are recognized under the current reimbursement methodology. Level 1 (nursery boarder) is a separate prospective per diem rate developed

for infants who remain in the hospital nursery after the mother is discharged. The principal cost of the birth is included with the payment for the mother's stay at the general peer group per diem rate. The nursery boarder rate is intended to cover incidental costs associated with an infant's short-term stay in the nursery following the mother's discharge.

The bureau has now determined that it is necessary to establish a separate prospective per diem rate for services rendered to infants who are discharged at the same time that the mother is discharged. This action is being taken in order to protect the health and well-being of Medicaid eligible mothers and infants by ensuring the continuity of access to hospital services for deliveries. It is estimated that implementation of this emergency rule will increase expenditures to private hospitals for well baby care inpatient services by approximately \$679,980 for state fiscal year 2000-2001.

Emergency Rule

Effective for dates of service on or after April 10, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a separate prospective per diem rate for well baby care rendered to infants who are discharged at the same time that the mother is discharged. The separate per diem rate for well baby care shall be available to private hospitals that perform more than 1500 Medicaid deliveries per year. The per diem rate for well baby care shall be the lesser of actual costs as documented on the last finalized cost report or the rate for a nursery boarder.

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

David W. Hood
Secretary

0104#038

DECLARATION OF EMERGENCY

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

Public Hospitals Reimbursement Methodology

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established the 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).

Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature directs the Department of Health and Hospitals to implement procedures to receive transfers of public funds from qualifying health care providers that will qualify as the state's matching share for the purpose of claiming federal financial participation (FFP). The Department defines a qualifying health care provider as any public provider owned by a parish, city or other local government agency or instrumentality. This definition includes facilities owned jointly by two or more government entities, but does not include facilities owned jointly by government and private organizations. The bureau proposes to amend the reimbursement methodology for all non-state public hospitals (other than those recognized as small rural hospitals) to pay each hospital's unreimbursed Medicaid costs incurred in providing care to Medicaid recipients. This emergency rule is being adopted to continue the provisions contained in the December 21, 2000 rule.

Emergency Rule

Effective April 21, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a supplemental payment to be issued to non-state public hospitals, which are not recognized by

the Department as a small rural hospital, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients. Issuance of the supplemental payment is contingent on the public hospital entering into a cooperative endeavor agreement with the Department to certify public funds as representing expenditures eligible for federal financial participation.

The supplemental payment shall be calculated from each hospital's latest audited Medicaid cost report. The payment amount shall be determined by subtracting the actual Medicaid reimbursements from the total Medicaid costs as calculated from the audited cost report. The Medicaid reimbursements and Medicaid costs shall include inpatient (acute and psychiatric services) hospital services and outpatient hospital services. This amount shall then be inflated forward to State Fiscal Year 2001 using the annual Medicare PPS Marketbasket Index. There will be no adjustment to this payment if additional costs are identified subsequent to the completion of the audit process. Any overpayments that occur as a result of the issuance of the supplemental payment shall be the responsibility of the rural hospitals.

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

David W. Hood
Secretary

0104#041

Rules

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Hazardous Waste—RCRA X Package
(LAC 33:V.3011 and 3025)(HW076*)

Editor's Note: The following portion of HW076*, which was published on pages 290-308 of the March 20, 2001 Louisiana Register, is being republished to correct a printing error.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental QualityXHazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3011. Standards to Control Particulate Matter

* * *

[See Prior Text in A - B]

C. Oxygen Correction

1. Measured pollutant levels must be corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times 14 / (E - Y)$$

where:

P_c = corrected concentration of the pollutant in the stack gas

P_m = measured concentration of the pollutant in the stack gas

E = oxygen concentration on a dry basis in the combustion air fed to the device

Y = measured oxygen concentration on a dry basis in the stack.

2. For devices that feed normal combustion air, E will equal 21 percent. For devices that feed oxygen-enriched air for combustion (i.e., air with an oxygen concentration exceeding 21 percent), the value of E will be the concentration of oxygen in the enriched air.

3. Compliance with all emission standards provided by this Chapter must be based on correcting to seven percent oxygen using this procedure.

D. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under LAC 33:V.3005) will be regarded as compliance with this Section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this Section may be "information" justifying modification or revocation and re-issuance of a permit under LAC 33:V.323.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 22:823 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:299 (March 2001), repromulgated LR 27:513 (April 2001).

§3025. Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not

excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements:

* * *

[See Prior Text in A - B]

1. Comparison of Waste-Derived Residue with Normal Residue. The waste-derived residue must not contain LAC 33:V.4901.G.Table 6 constituents (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in 40 CFR 266, appendix VIII, as adopted at Appendix H of this Chapter, that may be generated as products of incomplete combustion. Sampling and analyses shall be in conformance with procedures prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110. For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed to determine specific congeners and homologues, and the results converted to 2,3,7,8-TCDD equivalent values using the procedure specified in Appendix I of this Chapter.

* * *

[See Prior Text in B.1.a - B.2]

a. Nonmetal Constituents. The concentration of each nonmetal toxic constituent of concern (specified in Subsection B.1 of this Section) in the waste-derived residue must not exceed the health-based level specified in 40 CFR 266, appendix VII, as adopted and amended at Appendix G of this Chapter, or the level of detection (using analytical procedures prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110), whichever is higher. If a health-based limit for a constituent of concern is not listed in 40 CFR 266, appendix VII, as adopted and amended at Appendix G of this Chapter, then a limit of 0.002 micrograms per kilogram or the level of detection (using analytical procedures contained in SW-846 or other appropriate methods), whichever is higher, shall be used. The levels specified in 40 CFR 266, appendix VII (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in 40 CFR 266, appendix VII.Note1, as adopted and amended at Appendix G of this Chapter) are administratively stayed under the condition, for those constituents specified in Subsection B.1 of this Section, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in LAC 33:V.Chapter 22.Table 2 for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts, as defined by applicable agency guidance or

standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by LAC 33:V.Chapter 22.Table 2 for F039 nonwastewaters. In complying with the LAC 33:V.Chapter 22.Table 2 for F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorodibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans.

Note: The stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in LAC 33:V.Chapter 22.Table 2 for F039 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the *Federal Register* or the *Louisiana Register*; and

* * *

[See Prior Text in B.2.b - C.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 Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), repromulgated LR 27:513 (April 2001).

James H. Brent, Ph.D.
Assistant Secretary

0104#028

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Inactive and Abandoned Sites (LAC 33:VI.Chapter 9)(IA003)

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 adopted the Inactive and Abandoned Sites regulations, LAC 33:VI.Chapter 9 (Log #IA003).

This rule will implement the Voluntary Investigation and Remedial Action Law, Act 1092 of the 1995 Regular Session of the Louisiana Legislature. The rule provides a mechanism by which persons may voluntarily remediate contaminated properties and receive from the state a release from liability for past contamination in the form of a Certificate of Completion. This release would also apply to future owners of the property. Fear of pollution liability prevents many prospective purchasers, developers, etc., from undertaking cleanups at contaminated former industrial properties, effectively leaving these properties idle, unproductive, and unremediated. This rule will provide a mechanism to promote the remediation and re-use of such properties. Act

1092 of the 1995 Louisiana Legislature authorizes the department to promulgate regulations to provide for the return of commercial and industrial sites to productive use after remediation by the limitation of liability to landowners who voluntarily clean up contaminated sites. The basis and rationale for this Rule are to provide a mechanism to promote assessment, remediation, and re-use of contaminated properties.

Title 33

ENVIRONMENTAL QUALITY

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 9. Voluntary Remediation

§901. Authority and Purpose

A. These regulations are established by the Department of Environmental Quality in accordance with R.S. 30:2001 et seq., in particular, R.S. 30:2285 et seq. The purpose of these regulations is to promote the voluntary assessment, remediation, and sustainable reuse of contaminated properties, while protecting public health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:514 (April 2001).

§903. Definitions

A. The following definitions apply to terms used in this Chapter. Except as provided in this Section, the terms in this Chapter retain the definitions provided in LAC 33:VI.117.

Applicant—a person who has submitted an application, as described in LAC 33:VI.911, to participate in the voluntary remediation program.

Application—a submission to the department, as described in LAC 33:VI.911, for participation in the voluntary remediation program.

Certificate of Completion—written approval for a specific voluntary remediation site issued by the administrative authority to a person who has undertaken and completed a voluntary remedial action at the site in accordance with a previously-approved remedial action plan and that achieved the remedial action goals in the plan. Upon issuance, this approval provides release from liability in accordance with LAC 33:VI.907.

Nonresponsible Person—a person who is not a responsible person as defined in this Section.

Partial Voluntary Remedial Action—a voluntary remedial action for which not all discharges or disposals or threatened discharges or disposals at a voluntary remediation site are removed or remediated (e.g., soils are remediated, but groundwater is not, or only a portion of the site is remediated). Partial voluntary remedial actions must be consistent with RECAP, and any reuse of the site must not pose a significant threat to public health, safety, and welfare and the environment.

RecapXLouisiana Risk Evaluation/Corrective Action Program as presented in LAC 33:I.Chapter 13.

Responsible Person or Responsible Landowner—a person who is responsible under the provisions of R.S. 30:Chapter 12.Part 1 and LAC 33:Part VI for the discharge or disposal or threatened discharge or disposal of a hazardous substance or hazardous waste at a voluntary remediation site, except that, for the purposes of this

Chapter, a person who owns or has an interest in a voluntary remediation site is generally not a responsible person or responsible landowner, unless that person:

- a. was engaged in the business of generating, transporting, storing, treating, or disposing of a hazardous substance or hazardous waste on or in the site, or knowingly permitted others to engage in such a business on the site;
- b. knowingly permitted any person to make regular use of the site for disposal of waste;
- c. knowingly permitted any person to use the site for disposal of a hazardous substance;
- d. knew or reasonably should have known that a hazardous substance was located in or on the site at the time right, title, or interest in the site was first acquired by the person and engaged in conduct associating that person with the discharge or disposal; or
- e. took action that significantly contributed to the discharge or disposal after that person knew or reasonably should have known that a hazardous substance was located in or on the site.

Voluntary Remedial Action—risk-based cleanup of a voluntary remediation site performed in accordance with an approved voluntary remedial action plan. Unless specified as a partial voluntary remedial action, all discharges or disposals or threatened discharges or disposals are removed or remediated. Voluntary remedial actions must be consistent with RECAP.

Voluntary Remediation—participation in the voluntary remediation program, including application, remedial investigation, remedial action, and receipt of Certificate of Completion.

Voluntary Remediation Program—program operated in accordance with R.S. 30:Chapter 12.Part 2 and this Chapter, under which persons may apply to the department to investigate, perform voluntary remedial actions at, and receive Certificates of Completion for voluntary remediation sites.

Voluntary Remediation Site—area of immovable property that is clearly identified by survey and legal description at which a voluntary remedial action is to be performed, is being performed, or has been performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:514 (April 2001).

§905. Eligibility

A. Eligible Sites. All sites shall be eligible for voluntary remediation, except for the following:

1. permitted hazardous waste management units (HWMU) regulated under LAC 33:Part V or federal hazardous waste regulations (if the HWMU is located within a larger site, then only that portion of the site inside the HWMU boundary is ineligible);
2. sites that have been proposed in the *Federal Register* to be placed on the National Priorities List (however, sites that are proposed to be placed on the National Priorities List, but which are determined not to be appropriate for listing, will become eligible if not otherwise ineligible);
3. sites that have been placed on the National Priorities List (however, such sites become eligible if they

are subsequently removed from the National Priorities List and are not otherwise ineligible);

4. trust-fund-eligible underground storage tank systems, as defined in and regulated by LAC 33:Part XI; and

5. sites that have pending, unresolved federal environmental enforcement actions (not including simple cost recovery actions) that are related to the proposed voluntary remediation.

B. Eligible Persons

1. All persons shall be eligible to receive Certificates of Completion after completing approved voluntary remedial actions, except as otherwise provided in this Chapter.

2. Nonresponsible persons, as defined in this Chapter, are eligible to receive Certificates of Completion for partial voluntary remedial actions. Responsible persons, as defined in this Chapter, are not eligible to receive Certificates of Completion for partial voluntary remedial actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:515 (April 2001).

§907. Liability and Exemptions from Liability

A. Persons Exempt from Liability. Following a completed voluntary remedial action and issuance of a Certificate of Completion, the following persons shall be exempt from liability provided in R. S. 30:Chapter 12.Part 1 and LAC 33:Part VI:

1. the person who undertook and completed the voluntary remedial action at the voluntary remediation site;
2. the owner of the voluntary remediation site, if he is not a responsible person;
3. a person who acquires or develops all or part of the voluntary remediation site;
4. a successor or assignee of any person to whom the liability exemption applies; and
5. a person who provides financing for the implementation of the voluntary remedial action plan or for the development of the voluntary remediation site in accordance with the applicable use restrictions.

B. Persons Not Exempt from Liability. Notwithstanding Subsection A of this Section, the exemption from liability provided in this Chapter does not apply to:

1. a person who aggravates or contributes to a discharge or disposal or threatened discharge or disposal that was not remedied under an approved voluntary remedial action plan;
2. a person who was a responsible person under R.S. 30:Chapter 12.Part 1 and LAC 33:Part VI for a discharge or disposal or threatened discharge or disposal that was identified in the approved voluntary remedial action plan before taking an action that would have made the person subject to the exemptions under Subsection A.2-5 of this Section; or
3. a person who obtains approval of a voluntary remedial action plan by fraud or misrepresentation or by knowingly failing to disclose material information, or who knows that the approval was so obtained before taking an action that would have made the person subject to the exemptions from liability under Subsection A of this Section.

C. Performance Liability. Persons specified in Subsection A of this Section shall not be liable for aggravating or contributing to any discharge or disposal or

threatened discharge or disposal identified in an approved voluntary remedial action plan, for the purpose of Subsection B.1 of this Section, as a result of their performance of the remedial actions required in accordance with the plan and the direction of the administrative authority. Nothing in this Chapter relieves a person of any liability for failure to perform the work required by the plan in a workman-like manner and in accordance with generally accepted standards of performance and operation applicable to such remedial work.

D. Liability from Participation. No person who is not already liable for a site under R.S. 30:Chapter 12.Part 1 or LAC 33:Part VI shall incur such liability from simply having participated in the voluntary remediation program, except as provided in Subsection B.1 and C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:515 (April 2001).

§909. Voluntary Remedial Investigation and Remedial Action Requirements

A. Remedial Investigations. Voluntary remedial investigations shall be consistent with the methods and processes provided by RECAP. Voluntary remedial investigations must include:

1. the determination of the nature and extent of potential threats to human health and the environment through data collection and site characterization; and
2. the development of remedial action goals.

B. Remedial Actions. Voluntary remedial actions shall protect human health and the environment and comply with the RECAP standards determined in accordance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001).

§911. Application Process

A. Voluntary Remedial Investigation Applications. Prior to performing a remedial investigation and submission of the application in Subsection B of this Section, the applicant may submit a Voluntary Remedial Investigation Application for review and approval by the administrative authority, which consists of the following:

1. a Voluntary Remedial Investigation Application Form VCP001, available from the Office of Environmental Assessment, Remediation Services Division and on the department website at www.deq.state.la.us, with required attachments, accompanied by the remedial investigation work plan review fee; and

2. a remedial investigation work plan, which shall conform to the site investigation requirements of RECAP and, at a minimum, include the following:

- a. identification of all data needs following the review of existing preliminary evaluation reports and other existing data;
- b. identification of all potential exposure pathways/receptors and associated data needs;
- c. identification of all potentially applicable, relevant, and appropriate requirements (ARARs) and associated data needs;

d. a site-specific health and safety plan including necessary training, procedures, and requirements;

e. a site-specific sampling and analysis plan that includes the number, type, and location of all samples to be taken and the types of analyses to be conducted during the required site characterization activities; and

f. a quality assurance/quality control plan that identifies the quality assurance objectives and the quality control procedures necessary to obtain data of a sufficient quality for the remedial investigation.

B. Voluntary Remediation Applications. Prior to implementation of a voluntary remedial action at a site, applicants must submit a Voluntary Remediation Application to the Office of Environmental Assessment, Remediation Services Division for review and final approval. The application shall consist of the following:

1. a Voluntary Remediation Application Form VCP002, available from the Office of Environmental Assessment, Remediation Services Division and on the department website at www.deq.state.la.us, with required attachments, accompanied by the remedial action plan review fee;

2. a voluntary remedial action plan that contains a remedial investigation report, a remedial design, and a remedial project plan;

3. The remedial investigation report, which shall, at a minimum, include:

- a. the scope and description of the investigation;
- b. a site background summary;
- c. sampling and analysis results;
- d. identification of the sources of the release;
- e. identification of the horizontal and vertical extent of the contamination;
- f. proposed remedial action goals; and
- g. conclusions and recommendations for further action; and

4. the remedial design which shall implement the remedy that is being proposed in order to attain the remedial action goals. The remedial project plan shall include all tasks, specifications, and subplans necessary for the implementation of the remedial design, including construction and operation of the final remedy. The requirements for the remedial project plan include:

- a. a work plan, including:
 - i. a general description of the work to be performed and a summary of the engineering design criteria;
 - ii. maps showing the general location of the site and the existing conditions of the facility;
 - iii. a copy of any required permits and approvals;
 - iv. detailed plans and procedural material specifications necessary for the construction of the remedy;
 - v. specific quality control tests to be performed to document the construction, including specifications for the testing or reference to specific testing methods, frequency of testing, acceptable results, and other documentation methods as required by the administrative authority;
 - vi. start-up procedures and criteria to demonstrate the remedy is prepared for routine operation; and
 - vii. additional information to address ARARs;
- b. a sampling and analysis plan;
- c. a quality assurance/quality control plan;
- d. a site-specific health and safety plan;

- e. a project implementation schedule;
- f. if deemed necessary by the administrative authority, an operation and maintenance plan for post-remedial management including, but not limited to:
 - i. the name, telephone number, and address of the person responsible for the operation and maintenance of the site;
 - ii. a description of all operation and maintenance tasks and specifications;
 - iii. all design and construction plans;
 - iv. any applicable equipment diagrams, specifications, and manufacturer's guidelines;
 - v. an operation and maintenance schedule;
 - vi. a list of spare parts available at the site for repairs;
 - vii. a site-specific health and safety plan; and
 - viii. other information that may be requested by the administrative authority;
- g. if deemed necessary by the administrative authority, a monitoring plan for post-remedial management. This monitoring plan must include a description of provisions for monitoring of site conditions during the post-remedial management period to prevent further endangerment to human health and the environment, including:
 - i. the location of monitoring points;
 - ii. the environmental media to be monitored;
 - iii. the hazardous substances to be monitored and the basis for their selection;
 - iv. a monitoring schedule;
 - v. monitoring methodologies to be used (including sample collection procedures and laboratory methodology);
 - vi. provisions for quality assurance and quality control;
 - vii. data presentation and evaluation methods;
 - viii. a contingency plan to address ineffective monitoring; and
 - ix. provisions for reporting to the department on a semiannual basis including, at a minimum:
 - (a). the findings from the previous six months;
 - (b). an explanation of any anomalous or unexpected results;
 - (c). an explanation of any results that are not in compliance with the RECAP standards; and
 - (d). proposals for corrective action; and
 - h. other information that may be required by the administrative authority. The department may allow information to be incorporated by reference to avoid unnecessary duplication.

C. Acceptance for Public Review

1. After a satisfactory review of the Voluntary Remediation Application and the incorporation of necessary modifications required by the administrative authority into the application, the administrative authority will accept the application for public review.
2. After the application is accepted for public review and before the beginning of the public comment period provided in Subsections D and F of this Section, the applicant shall provide the number of copies of the accepted application specified by the administrative authority to the

Office of Environmental Assessment, Remediation Services Division.

3. The applicant shall also place copies of the accepted application in local public facilities, to be determined by the administrative authority (e.g., public library, local government office), near the voluntary remediation site.

D. Public Notice. Upon acceptance of the Voluntary Remediation Application, as set forth in Subsection C of this Section, the applicant must place a public notice of the proposed voluntary remedial action plan in the local newspaper of general circulation in the parish where the voluntary remediation site is located. The public notice shall be a single classified advertisement at least four inches by six inches in size in the legal or public notices section. The applicant must provide proof of publication of the notice to the Office of Environmental Assessment, Remediation Services Division prior to final approval of the plan. The public notice shall:

1. solicit comments, for a minimum of 30 days, on the voluntary remedial action plan from interested parties;
2. provide the names of all of the applicants and the physical location of the voluntary remediation site;
3. indicate that comments shall be submitted to the Office of Environmental Assessment, Remediation Services Division (including the division's contact person, mailing address, and physical address), as well as indicate the deadline for submission of comments;
4. indicate where copies of the proposed plan can be reviewed by the public; and
5. inform interested parties that they may request a public hearing on the voluntary remedial action plan.

E. Direct Notice to Landowners. Within five days of the public notice in Subsection D of this Section, the applicant must send a direct written notice of the voluntary remedial action plan to persons owning immovable property contiguous to the voluntary remediation site. This notice shall be sent to persons listed as owners of the property on the rolls of the parish tax assessor as of the date on which the voluntary remediation application is submitted. The notice must be sent by certified mail and contain the same information that is provided in the public notice. Return receipts or other evidence of the receipt or attempted delivery of the direct notice must be provided to the Office of Environmental Assessment, Remediation Services Division prior to final approval of the plan.

F. Public Hearing and Comment

1. Comments on the voluntary remedial action plan shall be accepted by the Office of Environmental Assessment, Remediation Services Division for a period of 30 days after the date of the public notice and shall be fully considered by the division prior to final approval of the plan. However, if the administrative authority determines a shorter or longer comment period is warranted, the administrative authority may provide for a shorter or longer comment period in the public notice described in Subsection D.1 of this Section. Also, the comment period provided in the public notice may be extended by the administrative authority if the administrative authority determines such an extension is warranted.

2. A public hearing may be held if the administrative authority determines a hearing is necessary based on public comments or other information.

3. The applicant shall be responsible for the actual costs of any such public hearing including, but not limited to, the costs of building rental, security, court reporter, and hearing officer.

G. Prior to final approval of the Voluntary Remediation Application, the administrative authority may require further modifications of the proposed plan if warranted based on issues brought forth by the public.

H. Upon final approval of the Voluntary Remediation Application, the administrative authority may include in the approval an acknowledgement that, upon certification of completion of the remedial actions, the applicant shall receive the exemption from liability provided for in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001).

§913. Completion of Voluntary Remedial Actions

A. Implementation. Voluntary remedial actions must be performed in accordance with the voluntary remedial action plan approved by the administrative authority. Any modification in the plan must be approved by the administrative authority in advance of implementation of the modification. Modifications that result in a fundamental change of the plan (e.g., less stringent cleanup standards or changes in remedial approach with greater local impact, such as bioremediation to incineration) must undergo the public notice and hearing procedure in LAC 33:VI.911 prior to approval and implementation.

B. Inspections. The department reserves the right to inspect and oversee voluntary remedial actions in accordance with LAC 33:VI.517.

C. Completion of Voluntary Remedial Actions

1. Upon completion of a voluntary remedial action, the applicant shall submit a voluntary remedial action report, which must include:

- a. a general description of the remedial action activities conducted at the site;
- b. a demonstration that the remedial actions have resulted in the attainment of the remedial action goals approved by the department in the Voluntary Remediation Application;
- c. a description of the volume and final disposal or reuse location and a copy of any waste manifests or other documentation of the disposition for wastes or environmental media that were removed from the site;
- d. documentation that any physical control and/or treatment system, or combination of physical controls and treatment systems, have been constructed or completed and are functioning as described in the remedial design and remedial project work plan; and
- e. other information that may be required by the department.

2. After satisfactory completion of a voluntary remedial action demonstrating that the remedial action goals have been accomplished and approval of the voluntary remedial action report, the administrative authority shall issue a Certificate of Completion to the applicant.

3. Certificates of Completion that are issued to a responsible person for a voluntary remedial action in which a voluntary remediation site is remediated for industrial use are valid only as long as the use of the site is industrial. Furthermore, where the approved remedial action incorporates use restrictions, institutional controls, or engineering controls, the Certificate of Completion is subject to compliance with such use restrictions, institutional controls, or engineering controls.

D. Termination at Will. The applicant may terminate participation in the voluntary remediation program at any time and for any reason, provided that:

1. the applicant provides written notice to the Office of Environmental Assessment, Remediation Services Division at least 15 days in advance of the termination;

2. the applicant has reimbursed the department for any reasonable costs incurred by the department up through the time of termination; and

3. termination of participation does not pose an immediate threat to public health, safety, and welfare and the environment and does not substantially increase the cost of future remediation. (This paragraph does not apply to conditions created prior to the participation of the applicant in the program.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:518 (April 2001).

§915. Additional Requirements for Partial Voluntary Remedial Actions

A. Criteria for Partial Remediation. The administrative authority may approve a Voluntary Remediation Application for partial voluntary remedial action submitted in accordance with LAC 33:VI.911, provided:

1. the applicant is a nonresponsible person;
2. the voluntary remedial action plan provides for all remedial actions necessary to allow for any proposed reuse or redevelopment of the site in a manner that does not pose a significant threat to public health, safety, and welfare and the environment;
3. the remedial action and the activities associated with any proposed reuse or redevelopment of the site will not:
 - a. aggravate or contribute to discharges or disposals or threatened discharges or disposals that are not required to be removed or remedied under the voluntary remedial action plan; and
 - b. interfere with or substantially increase the cost of future remedial actions to address the remaining discharges or disposals or threatened discharges or disposals; and
4. that prior to approval of the Voluntary Remediation Application, the owner of the voluntary remediation site agrees, in writing, to the following terms necessary to carry out remedial actions to address the remaining discharges or disposals or threatened discharges or disposals:
 - a. to cooperate with the administrative authority or his authorized representatives in taking remedial actions necessary to investigate or address remaining discharges or disposals or threatened discharges or disposals, including:
 - i. providing access to the property to the administrative authority and his authorized representatives;

ii. allowing the administrative authority or his authorized representatives to undertake activities at the property, including placement of borings, wells, equipment, and structures on the property; and

iii. granting rights-of-way, servitudes, or other interests in the property to the department for any of the purposes provided in Subsection A.4.a.i or ii of this Section;

b. to avoid any action that interferes with the remedial actions in Subsection A.4.a of this Section; and

c. to impose restrictions on the future use of the property as provided in Subsection C of this Section.

B. Written Agreement. The written agreement provided for in Subsection A.4 of this Section shall be binding on the successors and assigns of the owner, and the owner shall record the agreement, or a memorandum approved by the administrative authority summarizing the agreement, with the clerk of court in the official records of the parish where the voluntary remediation site is located prior to the issuance of a Certificate of Completion for the site.

C. Future Use Restrictions for Voluntary Remediation Sites Subject to Partial Voluntary Remedial Actions

1. Use Restrictions Mandatory. No partial voluntary remedial action shall be approved and no Certificate of Completion shall be issued for the partial voluntary remedial action unless the owner of the voluntary remediation site imposes and records necessary restrictions on the future use of the site, as provided in this Subsection.

2. Determination of Use Restrictions. The administrative authority shall determine the appropriate restrictions on the future use of the site that are necessary to prevent a significant threat to the public health, safety, and welfare and the environment. The administrative authority may conduct public hearings in the parish where the site is located to determine the reasonableness and appropriateness of such restrictions.

3. Imposition and Recordation of Use Restrictions. The owner of the voluntary remediation site shall impose restrictions on the future use of the site, as determined by the administrative authority under Subsection C.2 of this Section, and shall record the use restrictions with the clerk of court in the official records of the parish in which the site is located prior to the issuance of a Certificate of Completion for the site. If such use restrictions are excessively lengthy and complex, the administrative authority may allow, on a site-specific basis, a notice of the use restrictions to be recorded in the parish records instead of the actual use restrictions. The form and content of the notice must be acceptable to the administrative authority.

4. Modification or Removal of Use Restrictions

a. Restrictions on the future use of the voluntary remediation site shall not be modified, canceled, or removed unless authorized in advance by the administrative authority.

b. The administrative authority shall not authorize the modification, cancellation, or removal of restrictions on the future use of the site unless the site is further remediated to remove or remedy the remaining discharges or disposals or threatened discharges or disposals under the requirements of this Chapter.

c. The administrative authority must conduct at least one public hearing in the parish in which the site is located at least 30, and not more than 60, days prior to authorizing the modification, cancellation, or removal of

restrictions on the future use of the site as provided in Subsection C.4.a and b of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:518 (April 2001).

§917. Fees and Direct Cost Recovery

A. Fees

1. Voluntary Remedial Investigation Application Review Fee. Remedial investigation work plans submitted to the department for review must be accompanied by a \$500 review fee.

2. Voluntary Remediation Application Review Fee. Voluntary Remediation Applications must be accompanied by a \$500 review fee.

3. No application shall be accepted or reviewed unless accompanied by the appropriate review fee as required in Subsection A.1 and 2 of this Section.

B. Cost Recovery. Participants in the voluntary remediation program shall reimburse the department for actual direct costs associated with reasonable and appropriate oversight activities of the department conducted in accordance with this Chapter including, but not limited to, review, supervision, investigation, and monitoring activities.

1. Application review fees required by Subsection A of this Section, which are paid by the applicant, are subtracted from the actual direct costs for which the applicant is invoiced.

2. No Certificate of Completion shall be issued by the administrative authority unless the actual direct costs assessed by the department are paid in full by the applicant.

3. The department shall invoice the applicant for accrued actual direct costs (less any application review fees already paid) on a quarterly basis following the date of application. A final invoice shall be sent after the voluntary remedial action is completed and prior to issuance of a Certificate of Completion.

4. Payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address shown on the invoice.

5. Payment shall be made by the due date shown on the invoice.

a. Payments that are not received within 15 days of the due date will be assessed a late payment fee equal to five percent of the invoiced amount.

b. Payments not received within 30 days of the due date will be assessed a late payment fee of an additional five percent of the original invoiced amount.

c. Payments not received within 60 days of the due date will be assessed a late payment fee of an additional five percent of the original invoiced amount.

d. If payments are not submitted within 90 days of the due date, the department may suspend all work on the site until such time as payment is received by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:519 (April 2001).

§919. Record Retention

A. All data, reports, plans, drawings, correspondence, and other investigation and remediation records generated by applicants for voluntary remediation must be maintained by the applicants for at least three years after the date of issuance of the Certificate of Completion, or if no certificate is issued, for at least three years after termination of participation in the voluntary remediation program.

B. All data, reports, plans, drawings, correspondence, and other records generated during post-remedial management, as described in LAC 33:VI.911.B.3.f and g, must be maintained by the owner of the voluntary remediation site as long as post-remedial management is required. The owner of a voluntary remediation site undergoing post-remedial management must notify the subsequent owner of the site of these recordkeeping requirements.

C. The records required to be maintained in Subsection A and B of this Section must be made available to the department by the applicant or owner upon request.

D. For sites for which a notice of use restrictions has been placed into the parish record instead of the actual use restrictions, as provided in LAC 33:VI.915.C.3, the department shall maintain the use restrictions for as long as the use restrictions remain in effect for the site and for at least three years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:520 (April 2001).

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Assistant Secretary

0104#026

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Requirements for Response Action Contractors (LAC 33:XI.103, 1121, and Chapter 12)(UT007)

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 Underground Storage Tanks regulations, LAC 33:XI.103; 1121; and Chapter 12 (Log #UT007).

This rule sets the qualifications, notification, annual update requirements, and removal, suspension, and revocation procedures for a person to become a Response Action Contractor (RAC). RAC status allows a person or firm to carry out actions in response to a discharge or release of motor fuel from an underground storage tank and be eligible for reimbursement under the Motor Fuel Underground Storage Tank Trust Fund (MFUSTTF). The rule also corrects typographical errors and establishes new definitions. For approximately 10 years the department has, by policy, been approving persons or firms as RACs. This action will put into regulation many of the provisions from

the previous policy and also revise and add other requirements. This rule is in response to R.S. 30:2195.10, which requires the department to promulgate rules and regulations for the approval and compensation of response action contractors. The basis and rationale for this rule are to adhere to R.S. 30:2195.10.

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tank

Chapter 1. Program Applicability and Definitions

§103. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless specifically defined otherwise in LAC 33:XI.1105 or 1303.

* * *

[See Prior Text]

Geologist—a person who is a graduate of an accredited institution of higher education who has successfully completed a minimum of 30 semester hours or 45 quarter hours of course work in the science of geology and has in his/her possession a minimum of a baccalaureate degree.

* * *

[See Prior Text]

On Staff—performing services while employed by a response action contractor, for an average of twenty or more hours per week. On staff does not refer to an independent contractor, but to an employee of the response action contractor.

* * *

[See Prior Text]

Response Action—any activity, including but not limited to, assessment, planning, design, engineering, construction, operation of recovery system, or ancillary services that are carried out in response to any discharge or release or threatened release of motor fuels into the groundwater or subsurface soils.

Response Action Contractor—a person who has been approved by the department and is carrying out any response action, including a person retained or hired by such person to provide specialized services relating to a response action, and who shall provide no more than 40 percent of all response actions, based on costs, relating to a particular underground storage tank site. This 40 percent does not include those costs associated with reimbursement application preparation or laboratory analyses. When emergency conditions exist as a result of a release from a motor fuel underground storage tank, this term shall also include any person performing department-approved emergency response actions during the first 72 hours following the release.

* * *

[See Prior Text]

Specialized Services—response action activities associated with the preparation of a reimbursement application, laboratory analyses, or any construction activity, construction of trenches, excavations, installing monitoring wells, conducting borings, heavy equipment work, surveying, plumbing, and electrical work that are carried out by a subcontractor hired or retained by a response action contractor in response to a discharge or release or threatened

release of motor fuels into the groundwater or subsurface soils.

* * *

[See Prior Text]

Technical Services—assessment field activities oversight; all reporting, planning, designing, and operating of corrective action and remedial systems; specialized services oversight; and other services that require geological and engineering expertise carried out in response to a discharge or release of motor fuel from UST systems into soils, groundwater, or surface water.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.C.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 27:520 (April 2001).

Chapter 11. Financial Responsibility

§1121. Use of the Motor Fuel Underground Storage Tank Trust Fund

The administrative authority was authorized by R.S. 30:2194 - 2195.10 to receive and administer the Motor Fuel Underground Storage Tank Trust Fund (MFUSTTF) to provide financial responsibility for owners or operators of underground motor fuel storage tanks. Under the conditions described in this Section, an owner or operator who is eligible for participation in the MFUSTTF may use this mechanism to partially fulfill the financial responsibility requirements for eligible USTs. To use the MFUSTTF as a mechanism for meeting the requirements of LAC 33:XI.1107, the owner or operator must be an "eligible participant," as defined in Subsection A of this Section. In addition, the owner or operator must use one of the other mechanisms described in LAC 33:XI.1111-1119 or 1123-1125 to demonstrate financial responsibility for the amounts specified in Subsection C of this Section, which are the responsibility of the participant and not covered by the MFUSTTF.

A. Definitions. The following terms shall have the meanings ascribed to them as used in this Section.

* * *

[See Prior Text]

Eligible Participant—any owner of an underground storage tank who has registered said tank with the department prior to the date of a release, has paid the annual tank registration fees along with any late payment fees, and has met the financial responsibility requirements imposed by Subsection B of this Section.

*Motor Fuel Underground Storage Tank*Xa UST used only to contain an accumulation of motor fuels

Substantial Compliance—the owner or operator of a UST system shall be considered to be in substantial compliance when he or she has registered that tank with the department in accordance with LAC 33:XI.301, has complied with the state and federal laws and regulations applicable to USTs and the rules and regulations adopted pursuant thereto, has met the financial responsibility requirements specified in Subsection B of this Section, and

has promptly notified the administrative authority of any third-party claim or suit made against him or her.

Third-Party Claim—any civil action brought or asserted by any person against the secretary of the department and any owner of any underground storage tank for damages to person or property when damages are the direct result of the contamination of groundwater and/or subsurface soils by motor fuels released during operation of storage tanks that were being operated in substantial compliance as provided for in this Section. The term *damages to person* shall be limited to damages arising directly out of the ingestion or inhalation of petroleum constituents from water well contamination or inhalation of petroleum constituents seeping into homes or buildings, and the term *damages to property* shall be limited to the unreimbursed costs of a response action and the amount by which property is proven to be permanently devalued as a result of the release.

B. Financial Responsibility Requirements for MFUSTTF Participants

1. Unless revised by the administrative authority in accordance with R.S. 30:2195.9(A)(3), MFUSTTF participants taking response actions must pay the following amounts before any disbursements are made from the fund:

* * *

[See Prior Text in B.1.a-4]

C. Conditions for Use of the MFUSTTF. Funds in the MFUSTTF shall be used under the following conditions:

1. Whenever the administrative authority determines that an incidence of groundwater or subsurface soils contamination resulting from the storage of motor fuels may pose a threat to the environment or to public health, safety, or welfare, and the owner or operator of the UST system has been found to be an eligible participant (as defined in LAC 33:XI.1121.A), the department shall obligate monies available in the MFUSTTF to provide for the following response actions:

* * *

[See Prior Text in C.1.a-c.i.]

ii. Subject to the provisions of Subsection C.2 and 3 of this Section, the funds in the MFUSTTF shall be used to replace leaking USTs and attendant product piping if the tanks are of double-wall construction of continuous glass filament winding, are manufactured in Louisiana by a corporation whose domicile and corporate headquarters are in Louisiana, and comply with all applicable state and federal standards. Said funds shall be allocated on a match basis of 25 percent of the replacement cost of the leaking tanks and piping.

iii. The monies expended from the MFUSTTF for any of the above approved costs shall be spent only up to such sum as that which is necessary to satisfy petroleum UST financial responsibility requirements specified in LAC 33:XI.1107.

2. Whenever the department has incurred costs for taking response actions with respect to the release of motor fuels from a UST system, or the department has expended funds from the MFUSTTF for response costs or third-party liability claims, the owner or operator of the underground motor fuel storage tank shall be liable to the department for such costs only if the owner or operator was not in substantial compliance on the date of discharge of the motor fuels that necessitated the cleanup. Otherwise, liability is

limited to the provisions contained in LAC 33:XI.1121.B. Nothing contained herein shall be construed as authorizing the expenditure from the MFUSTTF on behalf of any owner or operator of a UST system who is not an eligible participant on the last anniversary date of the MFUSTTF for any third-party liability.

3. If the administrative authority has expended funds on behalf of an owner or operator who was not in substantial compliance, and the MFUSTTF is entitled to reimbursement of those funds so expended, the administrative authority shall have the authority to, and is obligated to, use any and all administrative and judicial remedies that might be necessary for recovery of the expended funds plus legal interest from the date of payment by the administrative authority and all costs associated with the recovery of the funds.

4. The MFUSTTF may be used for reimbursement of any costs associated with the review of applications for reimbursement from the MFUSTTF, legal fees associated with the collection of costs from parties not in substantial compliance, audits of the MFUSTTF, and accounting and reporting regarding the uses of the MFUSTTF.

5. The MFUSTTF may be used to make payments to a third party who brings a third-party claim against any owner or operator of an underground motor fuel storage tank because of damages caused by a release into the groundwater or subsurface soils and who obtains a final judgment in said action enforceable in Louisiana against the owner or operator only if it has been satisfactorily demonstrated that the owner or operator was an eligible participant as defined in LAC 33:XI.1121.A when the release occurred. The indemnification limit of the MFUSTTF with respect to satisfaction of third-party claims shall be that which is necessary to satisfy the requirements of LAC 33:XI.Chapter 11.

D. Procedures for Disbursements from the MFUSTTF

1. Monies held in the MFUSTTF are disbursed by the administrative authority in the following manner:

* * *

[See Prior Text in D.1.a]

b. Cost-effective procedures, as established by the administrative authority, shall be implemented by eligible participants using MFUSTTF monies.

2. Payments are made to third parties who bring suit against the administrative authority in his or her official capacity as representative of the MFUSTTF and the owner or operator of an underground motor fuel storage tank who is an eligible participant as defined in LAC 33:XI.1121.A and such third party obtains a final judgment in that action enforceable in Louisiana. The owner or operator stated above shall pay the amount required by LAC 33:XI.1121.B toward the satisfaction of said judgment, and after that payment has been made, the MFUSTTF will pay the remainder of said judgment. The attorney general of the state of Louisiana is responsible for appearing in said suit for and on behalf of the administrative authority as representative of the MFUSTTF. The administrative authority as representative of the MFUSTTF is a necessary party in any suit brought by any third party that would allow that third party to collect from the MFUSTTF, and the administrative authority must be made a party to the initial proceedings. Payment shall be made to the third-party claimant only if the

judgment is against an owner or operator who was an eligible participant on the date that the incident that gave rise to the claim occurred. The costs to the attorney general of defending these suits, or to those assistants that the administrative authority employs or the attorney general appoints to assist, shall be recovered from the MFUSTTF. If the MFUSTTF is insufficient to make payments when the claims are filed, such claims shall be paid in the order of filing when monies are paid into the MFUSTTF. Neither the amount of money in the MFUSTTF, the method of collecting it, nor any of the particulars involved in setting up the MFUSTTF shall be admissible as evidence in any trial in which suit is brought when the judgment rendered could affect the MFUSTTF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194 – 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), LR 27:521 (April 2001).

Chapter 12. Requirements for Response Action Contractors who Assess and Remediate Motor Fuel Contaminated Sites Eligible for Cost Reimbursement in Accordance with the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF)

§1201. Scope

A. These requirements apply to persons engaged in release response action activities including, but not limited to, assessment, remedial planning, design, engineering, construction, and the operation of recovery systems or ancillary services that are carried out in response to any discharge or release or threatened release of motor fuel into the groundwater or subsurface soils, and who have been hired by an owner or operator who seeks and is eligible for reimbursement for such services under the MFUSTTF, hereinafter referred to as the Tank Trust Fund (TTF).

B. Effective July 15, 1988, the Tank Trust Fund required that Response Action Contractors (RACs) be approved by the department. Any RAC performing UST site work due to a release eligible for Tank Trust Fund participation must meet standards approved by the department, and its name must appear on the RAC list maintained by the department. Only RACs appearing on the list at the time the work was performed are eligible for reimbursement from the TTF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.C and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:522 (April 2001).

§1203. Prohibitions

A. Twelve months after promulgation of these regulations, April 20, 2002, no person shall conduct a response action at a UST site unless the person has met the standards for the qualification of a RAC, as defined herein, and appears on the approved current RAC listing. These RACs shall be approved for RAC listing by the administrative authority. The MFUSTTF Advisory Board (hereinafter referred to as the "Board") may recommend to the administrative authority at any time that RACs be added or deleted from the list.

B. Persons performing technical services, as defined in LAC 33:XI.103, must be RACs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.C and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:522 (April 2001).

§1205. Qualifications

A. In order to be listed by the department as an approved RAC for work that is eligible for Tank Trust Fund reimbursement, persons must submit, on a department-prescribed application form, documentation demonstrating and verifying that they meet the following minimum requirements:

1. the applicant must be licensed by the State of Louisiana Licensing Board for Contractors with a specialty compatible with UST assessment/remedial activities. A copy of the valid, unexpired license must be provided in the name of the applicant to be placed on the RAC list;

2. the applicant must have a minimum of \$1 million of contractor's general liability insurance and a minimum of \$1 million of coverage for an accidental and/or unexpected release(s) from a UST system(s) and/or any other accidental releases related to site-specific RAC activities. A valid, unexpired copy of the certificates of insurance coverage must be provided in the name of the applicant to be placed on the RAC list and with the department listed as an additional insured. Certificate of insurance shall provide that the insurer shall give 30 days notice of cancellation to all insured;

3. the applicant's employees must comply with applicable Occupational Safety and Health Administration (OSHA) training and certification requirements. A written statement indicating compliance must be provided;

4. the applicant must have on staff, either a registered engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology or a geologist with expertise in these fields. A copy of the current engineering registration or the college transcripts for the geologists must be provided;

5. the applicant must sign a certification statement certifying that the RAC will not accept an authorization for work from an eligible Tank Trust Fund participant if the RAC cannot begin work within 72 hours of authorization. The certification shall include a commitment that the RAC will retain documentation demonstrating compliance with this requirement; and

6. the applicant must provide a job history and adequately demonstrate relevant experience in environmental subsurface investigation and remediation at sites exhibiting subsurface motor fuels contamination. A minimum of five jobs must be documented, and the applicant must adequately demonstrate the following:

- a. experience in oversight of installation of groundwater monitoring wells and soil borings;

- b. experience in developing and sampling/monitoring groundwater monitoring wells;

- c. experience in the oversight of physical removal, treatment, and/or proper disposal of soils contaminated with hydrocarbons or motor fuels;

- d. experience in the removal of free phase hydrocarbons from the subsurface; and

- e. proficiency with projects that require design and installation/implementation of corrective action programs for the purpose of remediating contaminated soils and/or groundwater sites impacted by USTs.

B. In order to adequately demonstrate required experience, as provided in Subsection A.6.a-e of this Section, only the applicant's experience, or the experience of a full-time employee of the applicant, shall be considered. The experience of a subcontractor or person(s) on retainer shall not be considered, and therefore, will not meet the requirements of this Section.

C. The RAC List will be updated once per quarter to include applicants who have met the requirements of this Section. All new applications or annual updates shall be submitted to the Office of Environmental Services, Permits Division by 4:30 p.m. on or before the fifteenth day of March, June, September, and December.

D. Applicants who submit applications lacking the documentation required in Subsection A of this Section shall be notified in writing of the deficiencies.

E. Any application that adequately demonstrates the requirements of Subsection A of this Section shall be submitted to the administrative authority for approval. Upon approval by the administrative authority the applicant shall be included on the approved RAC list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.C and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:523 (April 2001).

§1207. RAC Listing

A. Notification Requirements. Notification in writing shall be made to the department within 30 days by a RAC who no longer meets the qualification requirements of LAC 33:XI.1205.A.

B. Annual Update Requirements. No later than March 1 of each year, each RAC shall submit the following information to the department:

1. a copy of a valid, unexpired license by the State of Louisiana Licensing Board for Contractors with a specialty compatible with UST assessment/remedial activities in the name of the RAC identified on the RAC listing;

2. a copy of a valid, unexpired certificate bearing the name of the person identified on the RAC listing indicating a minimum of \$1 million contractor's general liability insurance and a minimum of \$1 million of coverage for an accidental and/or unexpected release(s) from a UST system(s) and/or any other accidental releases related to site-specific RAC activities; and

3. a copy of a certificate or documentation showing current OSHA compliance for HAZWOPER training, as defined in 29 CFR 1910.120, for at least one full-time employee of the RAC.

C. Failure to submit the documentation required in this Section shall result in removal from the RAC listing until such time as the required information is submitted and reviewed by the department and the administrative authority approves the RAC listing.

D. A RAC shall notify the owner/operator within 24 hours of receiving notice of a RAC listing removal, suspension, and/or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.C and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:523 (April 2001).

§1209. Suspension/Revocation from RAC Listing

A. The administrative authority may suspend or revoke a RAC from the listing based on the following:

1. evidence of fraud or deceit with respect to any documentation submitted to the department; or
2. willful violation of the laws and regulations of Louisiana regarding site assessment or remediation.

B. The administrative authority may revoke a RAC's listing when the RAC or its employees have been convicted of a felony related to response action activities. This revocation is not subject to the RAC listing revocation procedures provided for in this Section.

C. The suspension or revocation of a RAC listing will depend upon seriousness of the offense(s).

1. After a suspension period of 90-365 days as specified by the department, a RAC may petition the department in accordance with the requirements of LAC 33:XI.1205 for relisting.

2. After a period of five years, a RAC whose listing has been revoked may reapply. If a RAC listing is revoked a second time, the revocation shall be permanent.

D. Written Notice

1. When the department determines that a RAC listing should be suspended or revoked, the department shall notify that RAC by certified mail. Such written notice shall contain the following:

a. facts that will justify a recommendation to the administrative authority for suspension or revocation from the RAC listing;

b. a description of the general nature of the evidence supporting the recommendation; and

c. unless the RAC, within 30 days after receipt of the notice, submits a request for an informal hearing before the board, the department shall recommend to the administrative authority that the RAC's listing be suspended or revoked. The request for informal hearing shall be submitted to the Office of Management and Finance, Financial Services Division. A written statement giving the RAC's view of the circumstances shall accompany the request for hearing.

2. If the RAC does not mail a request for hearing and a statement of the circumstances within the time frame specified, the department shall recommend to the administrative authority the suspension for a specified period of time or revocation from the RAC listing.

E. Hearings Before the Board

1. At least 20 days prior to a hearing, the department shall provide the RAC with a notice of the hearing. The notice shall be sent by certified mail and include the time, date, and location of the hearing.

2. All hearings on suspension or revocation from the RAC listing held before the board shall not be an adjudicatory hearing as provided for in the Administrative Procedure Act and shall be conducted with rapidity and without the observance of all formalities. All hearings conducted by the board shall be recorded and a transcript prepared.

3. Within 90 days after conducting an informal hearing, the board shall forward its recommendation to the administrative authority for a decision.

4. Upon receiving notice of a RAC listing removal, suspension, and/or revocation, a RAC shall notify the owner/operator within 24 hours.

F. Record of Hearing. The record of proceedings conducted under this Section shall consist of the following:

1. the RAC's certified request for hearing and statement of the circumstances;
2. the notice of the hearing;
3. all documentary evidence and written comments received;
4. the recording of the hearing; and
5. written recommendations from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.C and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:524 (April 2001).

James H. Brent, Ph.D.
Assistant Secretary

0104#027

RULE

**Office of the Governor
Division of Administration
Office of the Commissioner**

Electronic Signatures (LAC 4:I.Chapter 7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Division of Administration has promulgated rules and regulations relative to the implementation of electronic signatures.

Title 4

ADMINISTRATION

Part I. General Provisions

**Chapter 7. Implementation of Electronic Signatures
in Global and National Commerce Act-
P.L. 106-229**

§701. Short Title

A. These procedures are in response to the Federal "Electronic Signatures in Global and National Commerce Act" (e-sign) effective October 1, 2000. E-sign applies only to the use of electronic records and signatures in interstate or foreign commerce. These rules may be referred to as the "E-Sign Rules."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:524 (April 2001).

§703. Exemptions

A. State agency transactions that are not governed by the Electronic Signatures in Global and National Commerce Act, PL 106-229, hereinafter referred to as the Ae-sign, are not subject to these procedures.

B. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval and do not conflict with e-sign, shall remain in effect.

C. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval with sections that are in conflict with e-sign, shall have all

sections of these procedures remain in effect that are not in conflict with e-sign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:524 (April 2001).

§705. General

A. This section applies to all written electronic communications which are sent to a state agency over the Internet or other electronic network or by another means that is acceptable to the state agency, for which the identity of the sender or the contents of the message must be authenticated, and for which no prior agreement between the sender and the receiving state agency regarding message authentication existed as of the effective date of this section. This section does not apply to or supersede the use and expansion of existing systems which are not in conflict with the Federal "Electronic Signatures in Global and National Commerce Act:"

1. for the receipt of electronically filed documents pursuant to applicable Louisiana statutory law and promulgated rules and regulations, where the purpose of the written electronic communication is to comply with statutory filing requirements and the receiving state agency or local government is not a party to the underlying transaction which is the subject of the communication; or

2. for the electronic approval of payment vouchers under rules adopted by the State Treasurer pursuant to applicable law.

B. Prior to accepting a digital signature, a state agency shall ensure that the level of security used to identify the signer of a message and to transmit the signature is sufficient for the transaction being conducted. A state agency that accepts digital signatures may not effectively discourage the use of digital signatures by imposing unreasonable or burdensome requirements on persons wishing to use digital signatures to authenticate written electronic communications sent to the state agency.

C. A state agency that accepts digital signatures shall not be required to accept a digital signature that has been created by means of a particular acceptable technology described in Subsection D of this section if the state agency:

1. determines that the expense that would necessarily be incurred by the state agency in accepting such a digital signature is excessive and unreasonable;

2. provides reasonable notice to all interested persons of the fact that such digital signatures will not be accepted, and of the basis for the determination that the cost of acceptance is excessive and unreasonable; and

3. files an electronic copy (in html format) of the notice with the Division of Administration. The Division of Administration shall make a copy of such notice available to the general public via the World Wide Web.

D. A state agency shall ensure that all written electronic communications received by the state agency and authenticated by means of a digital signature in accordance with this section, as well as any information resources necessary to permit access to the written electronic communications, are retained by the state agency as necessary to comply with applicable law pertaining to audit and records retention requirements.

E. Guidelines Agencies Should Use in Adopting an Electronic Signature Technology

1. An agency's determination of which technology is appropriate for a given transaction must include a risk assessment, and an evaluation of targeted customer or user needs. The initial use of the risk assessment is to identify and mitigate risks in the context of available technologies and their relative total costs and effects on the program being analyzed. The assessment also should be used to develop baselines and verifiable performance measures that track the agency's mission, strategic plans, and performance objectives. Agencies must strike a balance, recognizing that achieving absolute security is likely to be in most cases highly improbable and prohibitively expensive.

2. The identity of participants to a transaction may not need to be authenticated. If authentication is required, several options are available: ID and passwords for a web-based transaction may be sufficient, however the user login session should be encrypted using either Secured Sockets Layer (SSL) or Virtual Private Networks (VPN) or an equivalent encryption technology.

3. Digital Signatures/Certificates may offer increased security (positive ID), however this will vary depending on:

a. who issues the certificates;

b. what is the identity-proofing process (e.g., are you using social security number, photo IDs, biometrics); and

c. is the certificate issued remotely via software or mail, or is "in person" identification required?

4. In determining whether an electronic signature is required or is sufficiently reliable for a particular purpose, agencies should consider the relationships between the parties, the value of the transaction, and the likely need for accessible, persuasive information regarding the transaction at some later date (e.g., audit or legal evidence). The types of transactions may require different security control measures, based on security risks and legal obligations:

a. transactions involving the transfer of funds;

b. transactions where the parties commit to actions or contracts that may give rise to financial or legal liability;

c. transactions involving information protected under state or federal law or other agency-specific statutes obliging that access to the information be restricted;

d. transactions where the party is fulfilling a legal responsibility which, if not performed, creates a legal liability (criminal or civil);

e. transactions where no funds are transferred, no financial or legal liability is involved and no privacy or confidentiality issues are involved.

5. Agency transactions fall into five general categories, each of which may be vulnerable to different security risks:

a. intra-agency transactions;

b. inter-agency transactions (i.e., those between state agencies);

c. transactions between a state agency and federal or local government agencies;

d. transactions between a state agency and a private organization-contractor, non-profit organization, or other entity;

e. transactions between an agency and a member of the general public.

6. Agencies should follow several privacy tenets:

a. electronic authentication should only be required where needed. Many transactions do not need, and should not require, detailed information about the individual;

b. when electronic authentication is required for a transaction, do not collect more information from the user than is required for the application;

c. the entity initiating a transaction with a state agency should be able to decide the scope of their electronic means of authentication.

7. When agencies evaluate the retention requirements for specific records, they should consider the following if the record was signed with an electronic signature.

a. *Low Risk*—simple electronic signature (e.g., typed name on an e-mail message).

b. *High Risk*—digitally-signed communication—a message that has been processed by a computer in such a manner that ties the message to the individual that signed the message. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

8. If the record contains a digital signature, the following additional documents may be required:

a. a copy of the *Public Key*;

b. a copy of the Certificate Revocation List (CRL) showing the validity period of the certificate or a copy of the On-line Certificate Status Protocol (OCSP) results;

c. Certification Practice Statement (CPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:525 (April 2001).

§707. Definitions

A. The following words and terms, when used in this section, shall have the following meanings unless the context expressly indicates otherwise.

Asymmetric Cryptosystem—a computer-based system that employs two different but mathematically related keys with the following characteristics:

- a. one key encrypts a given message;
- b. one key decrypts a given message; and
- c. the keys have the property that, knowing one key,

it is computationally infeasible to discover the other key.

Certificate—a message which:

- a. identifies the certification authority issuing it;
- b. names or identifies its subscriber;
- c. contains the subscriber's public key;
- d. identifies its operational period;
- e. is digitally signed by the certification authority

issuing it; and

- f. conforms to ISO X.509 Version 3 standards.

Certificate Manufacturer—a person that provides operational services for a Certification Authority or PKI Service Provider. The nature and scope of the obligations and functions of a Certificate Manufacturer depend on contractual arrangements between the Certification Authority or other PKI Service Provider and the Certificate Manufacturer.

Certificate Policy—a document prepared by a Policy Authority that describes the parties, scope of business, functional operations, and obligations between and among PKI Service Providers and End Entities who engage in electronic transactions in a Public Key Infrastructure.

Certification Authority—a person who issues a certificate.

Certification Practice Statement—documentation of the practices, procedures, and controls employed by a Certification Authority.

Digital Signature—an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature, and that complies with the requirements of this section.

Digitally-Signed Communication—a message that has been processed by a computer in such a manner that ties the message to the individual that signed the message.

End Entities—subscribers or Signers and Relying Parties.

Escrow Agent—a person who holds a copy of a private key at the request of the owner of the private key in a trustworthy manner.

Handwriting Measurements—the metrics of the shapes, speeds and/or other distinguishing features of a signature as the person writes it by hand with a pen or stylus on a flat surface.

Key Pair—a private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify a digital signature that the private key creates.

Local Government—a parish, municipality, special district, or other political subdivision of this state, or a combination of two or more of those entities.

Message—a digital representation of information.

Person—an individual, state agency, local government, corporation, partnership, association, organization, or any other legal entity.

PKI—Public Key Infrastructure.

PKI Service Provider—a *Certification Authority*, *Certificate Manufacturer*, *Registrar*, or any other person that performs services pertaining to the issuance or verification of certificates.

Policy Authority—a person with final authority and responsibility for specifying a Certificate Policy.

Private Key—the key of a key pair used to create a digital signature.

Proof of Identification—the document or documents or other evidence presented to a Certification Authority to establish the identity of a subscriber.

Public Key—the key of a key pair used to verify a digital signature.

Public Key Cryptography—a type of cryptographic technology that employs an asymmetric cryptosystem.

Registrar—a person that gathers evidence necessary to confirm the accuracy of information to be included in a subscriber's certificate.

Relying Party—a state agency that has received an electronic message that has been signed with a digital signature and is in a position to rely on the message and signature.

Role-Based Key—a key pair issued to a person to use when acting in a particular business or organizational capacity.

Signature Digest—the resulting bit-string produced when a signature is tied to a document using Signature Dynamics.

Signer—the person who signs a digitally signed communication with the use of an acceptable technology to uniquely link the message with the person sending it.

State Agency—a department, commission, board, office, council, or other agency in the executive branch of state government that is created by the constitution, Executive Order, or a statute of this state. Higher education, the legislature and the judiciary are to be considered state agencies to the extent that the communication is pursuant to a state law applicable to such entities.

*Subscriber*Xa person who:

- a. is the subject listed in a certificate;
- b. accepts the certificate; and
- c. holds a private key which corresponds to a public

key listed in that certificate.

Technology—the computer hardware and/or software-based method or process used to create digital signatures.

Written Electronic Communication—a message that is sent by one person to another person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:526 (April 2001).

§709. Digital Signatures Must be Created by an Acceptable Technology

A. For a digital signature to be valid for use by a state agency, it must be created by a technology that is accepted for use by the Division of Administration pursuant to guidelines listed in §711 of this document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:527 (April 2001).

§711. Acceptable Technology

A. The technology known as Public Key Cryptography is an acceptable technology for use by state agencies, provided that the digital signature is created consistent with the following.

1. A public key-based digital signature must be unique to the person using it. Such a signature may be considered unique to the person using it if:

a. the private key used to create the signature on the message is known only to the signer or, in the case of a role-based key, known only to the signer and an escrow agent acceptable to the signer and the state agency; and

b. the digital signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetric cryptosystem and the signer's private key; and

c. although not all digitally signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and

d. it is computationally infeasible to derive the private key from knowledge of the public key.

2. A public key based digital signature must be capable of independent verification. Such a signature may be considered capable of independent verification if:

a. the relying party can verify the message was digitally signed by using the signer's public key to decrypt the message; and

b. if a certificate is a required component of a transaction with a state agency, the issuing PKI Service Provider, either through a certification practice statement, certificate policy, or through the content of the certificate itself, has identified what, if any, proof of identification it required of the signer prior to issuing the certificate.

3. The private key of public key based digital signature must remain under the sole control of the person using it, or in the case of a role-based key, that person and an escrow agent acceptable to that person and the state agency. Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, must exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's digital signature.

4. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

5. Acceptable PKI Service Providers

a. The Division of Administration shall maintain an "Approved List of PKI Service Providers" authorized to issue certificates for digitally signed communications sent to state agencies or otherwise provide services in connection with the issuance of certificates. The list may include, but shall not necessarily be limited to, Certification Authorities, Certificate Manufacturers, Registrars, and/or other PKI Service Providers accepted and approved for use in connection with electronic messages transmitted to other state or federal governmental entities. A copy of such list may be obtained directly from the Division of Administration, or may be obtained electronically via the World Wide Web.

b. State agencies shall only accept certificates from PKI Service Providers that appear on the "Approved List of PKI Service Providers."

c. The Division of Administration shall place a PKI Service Provider on the "Approved List of PKI Service Providers" after the PKI Service Provider provides the Division of Administration with a copy of its current certification practice statement, if any, and a copy of an unqualified performance audit performed in accordance with standards set in the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 70 (S.A.S. 70) to ensure that the PKI Service Provider's practices and policies are consistent with the requirements of the PKI Service Provider's certification practice statement, if any, and the requirements of this section.

d. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for one year or less shall undergo a SAS 70 Type One audit - A Report of Policies and Procedures Placed in Operation, receiving an unqualified opinion.

e. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for longer than one year shall undergo a SAS 70 Type Two audit—A Report of Policies and Procedures

Placed in Operation and Test of Operating Effectiveness, receiving an unqualified opinion.

f. In lieu of the audit requirements of Subparagraphs d and e above, a PKI Service Provider may be placed on the "Approved List of PKI Service Providers" upon providing the Division of Administration with documentation issued by a person independent of the PKI Service Provider that is indicative of the security policies and procedures actually employed by the PKI Service Provider and that is acceptable to the Division of Administration in its sole discretion. The Division of Administration may request additional documentation relating to policies and practices employed by the PKI Service Provider indicating the trustworthiness of the technology employed and compliance with applicable guidelines published by the Division of Administration.

g. To remain on the "Approved List of PKI Service Providers" a Certification Authority must provide proof of compliance with the audit requirements or other acceptable documentation to the Division of Administration every two years after initially being placed on the list. In addition, a Certification Authority must provide a copy of any changes to its certification practice statement to the Division of Administration promptly following the adoption by the Certification Authority of such changes.

h. If the Division of Administration is informed that a PKI Service Provider has received a qualified or otherwise unacceptable opinion following a required audit or if the Division of Administration obtains credible information that the technology employed by the PKI Service Provider can no longer reasonably be relied upon, or if the PKI Service Provider's certification practice statement is substantially amended in a manner that causes the PKI Service Provider to become no longer in compliance with the audit requirements of this section, the PKI Service Provider may be removed from the "Approved List of PKI Service Providers" by the Division of Administration. The effect of the removal of a PKI Service Provider from the "Approved List of PKI Service Providers" shall be to prohibit state agencies from thereafter accepting digital signatures for which the PKI Service Provider issued a certificate or provided services in connection with such issuance for so long as the PKI Service Provider is removed from the list. The removal of a PKI Service Provider from the "Approved List of PKI Service Providers" shall not, in and of itself, invalidate a digital signature for which a PKI Service Provider issued the certificate prior to its removal from the list.

B. The state may elect to enact or adopt the Federal Uniform Electronic Transactions Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:527 (April 2001).

§713. Provisions for Adding New Technologies to the List of Acceptable Technologies

A. Any person may, by providing a written request that includes a full explanation of a proposed technology which meets the requirements of §709 in this Rule, petition the Division of Administration to review the technology. If the Division of Administration determines that the technology is acceptable for use by state agencies, the Division of Administration shall draft proposed administrative rules

which would add the proposed technology to the list of acceptable technologies in §711 of this Rule.

B. The Division of Administration has 90 days from the date of the request to review the petition and either accept or deny it. If the Division of Administration does not approve the request within 90 days, the petitioner's request shall be considered denied. If the Division of Administration denies the petition, it shall notify the petitioner in writing of the reasons for denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 27:528 (April 2001).

Whitman J. Kling, Jr.
Deputy Undersecretary

0104#055

RULE

Office of the Governor Office of Women's Services

Family Violence Program (LAC 4:VI.Chapter 17)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Governor's Office of Women's Services has repealed LAC 4:VII.1731-1735 Minimum Standards for Family Violence Programs, and amended new regulations entitled Governor's Office of Women's Services Quality Assurance Standards for Family Violence Programs.

The standards apply to all organizations community-based nonprofits that provide services for survivors of family violence and receive funds through the Governor's Office of Women's Services.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 17. Women's Services

Subchapter B. Family Violence Program Minimum Standards

§1720. Policy and Governance

A. Basic Considerations. These standards emphasize the role of the governing body in setting policy, identifying need, developing a strategy to address needs and evaluating the effectiveness and efficiency of the organization. The role of the governing body and the executive director are clearly differentiated; staff do not govern and the governing body does not administer the day-to-day activities. The governing body establishes policies and the staff, at the direction of the executive director, implements programs reflecting those policies. A clear governance structure is in place.

B. Standards

1. The purpose of the program is clearly stated and compatible with the philosophy of the OWS/LCADV.
2. The program functions in accordance with its stated purpose.
3. The program has a designated governing authority.
4. The governing authority is accountable for the program. It ensures the program's compliance with the

charter and with relevant federal, state and local laws and regulations.

5. Members of the governing authority and any advisory body to the governing authority are chosen in a manner that assures a broad base of knowledge and participation in the governance of the program. There is a rotation mechanism to ensure a balance of new members and seasoned members.

6. The governing authority and any advisory body operate in accordance with acceptable practice.

a. The governing authority designates a person to act as executive director and delegates sufficient authority to this person to manage the program. An annual performance evaluation is conducted by the governing authority.

7. The governing authority establishes policies for the efficient and effective operation of the program.

8. The program takes a leadership role in identifying and addressing needs of family violence survivors and their children.

9. The program sets goals and objectives for its management; service delivery; and systems change functions, developing plans to achieve them.

10. The program evaluates the effectiveness and efficiency of its management, service delivery and systems change functions.

11. The program has documentation of its authority to operate under state law. There will be either a charter, partnership agreement, constitution, articles of association, or by-laws.

12. The program has documents identifying the governing body's addresses; their terms of membership; officers; and officers' terms.

13. The program has written minutes of formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

14. The program informs designated representatives of the Office of Women's Services prior to initiating any substantial changes in the program, services or physical plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:528 (April 2001).

§1721. Contract Requirements

A. Basic Considerations. These standards emphasize legal and contractual issues which the program is required to meet and are identified in the contract. These standards are not inclusive of all the requirements under the contract. It should be noted that the contract contains an over-arching provision which specifies that compliance with the OWS quality assurance standards is required.

B. Standards

1. The program is legally authorized to contract.

2. The program provides services required in the contract. These services include but are not limited to emergency shelter or referrals, 24-hour hot line; crisis, advocacy, support and group counseling; and support services.

3. The program services comply with the OWS program philosophy.

4. The program does not accept reimbursement from clients unless their grant specifically authorizes them to do so.

5. The program submits accurate and timely reports and budget revisions in the required manner.

6. The program retains books, records or other documents relevant to their contract for five years after final payment.

7. The program obtains an annual audit within six months of ending of fiscal year and submits same to OWS.

8. The program agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974; Title IX of the Education Amendments of 1972; the Age Act of 1972; and the contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

9. The program acknowledges OWS as a funding agent on its program stationery, written material and when providing information about the program.

10. The program informs applicants or recipients of service of their right to a fair hearing in the event of denial, reduction, or termination of a service or the program's failure to act upon a request for service within a reasonable period of time.

11. The program restricts the use or disclosure of information concerning services, applicants or recipients obtained in connection with the performance of the contract to purposes which provide a benefit to survivors. The survivor is informed of any request for information and signs a voluntary consent before the information is made available.

12. The program does not use funds as direct payment to survivors or dependents.

13. The program imposes no income eligibility standards on individuals receiving assistance.

14. The program has procedures in place to insure confidentiality of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:529 (April 2001).

§1722. Social Change

A. Basic Considerations. These standards address the program's education and advocacy efforts to ensure that survivors, their children, and those at risk of family violence, are protected and treated compassionately. The overall goal is to create an effective response system in the community and to change cultural attitudes and institutional practices that perpetuate violence. It is important to remember, however, that standards can only address the issues for which the organization can be accountable. The program cannot be held accountable for whether a social change occurs. The program can be held accountable for their efforts to educate and advocate in the hope that change will result.

B. Standards

1. The program identifies those systems and organizations throughout its service area which affect the prevention and treatment of family violence.

2. The program evaluates the practices of those systems and organizations to determine which are harmful or ineffective.

3. The program prioritizes the community systems, organizations and institutions which need to be impacted

first and develops a plan which defines strategies to change harmful or ineffective practices, reinforce helpful practices, and intervene where there are no established practices or policies. The plan is adopted by the board on an annual basis and is updated as necessary. The plan could be developed in collaboration with a local coordinating council or task force.

4. The program conducts public education sessions targeted to personnel employed by community systems organizations.

5. The program works collaboratively with those community systems used by family violence survivors which may include establishing safe and independent lives. The goal is to change institutional practices that place survivors at risk.

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§1723. Foundational

A. Basic Considerations. These standards address the issues and concerns which apply across all areas of the organization and program implementation. They provide basic guidelines to assure the highest ethical standards with regard to behaviors of staff, volunteers (including Boards of Directors and Advisory Boards), and the guarantee of confidentiality. These standards ensure that informed and skillful assistance is provided to family violence survivors in an empowering, non-victim blaming way, determining the extent of danger and proper ways to prepare for future safety.

B. Standards

1. Ethics

a. Family violence programs abide by an accepted code of ethics that ensures excellence in service delivery and professionalism among family violence advocates when working with survivors and representing the program.

b. Programs are equal opportunity employers. No person is discriminated against seeking employment, or while employed, on the basis of age, sex, race, color, disability, national origin, religion, veteran status, marital status, sexual orientation, abuse status (i.e. battered or formerly battered), or parenthood.

c. Program employees do not discriminate in the provision of services or use of volunteers on the basis of any status described above. No program discriminates or retaliates against any employee who exercises her/his rights under any Federal or State anti-discrimination law.

2. Confidentiality

a. Confidentiality of Facilities

i. When it is the policy of a family violence program to keep the location of their shelter or other facilities confidential, the program employees and volunteers are prohibited from disclosing information regarding the location of those facilities except in the following specific cases:

(a). to medical, fire, police personnel or agencies, when their presence is necessary to preserve the health and safety of survivors, employees, or volunteers at the facility;

(b). to vendors and others with whom programs have business relationships on a need-to-know basis. The executive director or designee ensures that written agreements are executed by representatives of such

businesses pledging to keep the location of the facility confidential;

(c). to any other person when necessary to maintain the safety and health standards in the facility. The executive director or designee may disclose the location of the confidential facility for the purpose of official fire inspections, health department inspections, and other inspections and maintenance activities necessary to assure safe operation of the facility;

(d). to supportive individuals of a shelter resident who have been approved as a part of case management, who have been prescreened by staff, and who have signed an agreement to keep the address and location of the facility confidential. Staff ensures that the individual's presence at the facility does not violate the confidentiality of other shelter residents at the facility;

(e). confidential, written records of services provided by staff members, and/or volunteers are maintained. These records indicate the types of services provided; the individual or family to whom services were provided, the dates of service provision, the content and outcome of the interaction(s); the staff and/or volunteer providing the service(s); and provisions for future or on-going services.

b. Confidentiality of Survivor Information

i. Information received by family violence programs about survivors is confidential. Records on survivors are kept in locked files to assure confidentiality. Employees and volunteers are prohibited from disclosing survivor information except in very limited circumstances. Employees and volunteers are prohibited from releasing information about survivors to other employees and volunteers of the same family violence program except in the event of a specific need-to-know. A staff member or volunteer is considered to have a need to know when their work relates directly to the survivor for whom information is available.

ii. Confidential information may be released after a survivor signs a statement authorizing the release. The survivor should be informed about:

(a). to whom the information will be released (name of person or agency);

(b). a date by which the information will be forwarded to the person or entity to whom it will be released;

(c). the purpose for which this information is being released to this person or entity,

(d). the specific information that will be released; and

(e). the right to withdraw permission at any time.

iii. Staff and volunteers report information about any suspected abuse or neglect of a child or dependent adult according to the Louisiana Child & Adult Protection statutes.

(a). Regardless of a person's status as a family violence survivor, staff and volunteers are required to report suspected abuse of a child or dependent adult.

(b). After the filing of a program initiated abuse report, family violence staff must cooperate with the Child or Adult Protective Services regarding the investigation of the abuse report. This includes assisting the protective services staff in gaining access to the survivor and child(ren) in a manner that maintains the confidentiality of the non-

reported survivor receiving services from the family violence program. This, however, does not compel the following:

(i). violating the confidentiality of survivor/children who are not named in the abuse report as a victim or perpetrator of the abuse reported;

(ii). releasing information not directly relevant to the reported abuse.

c. Medical Emergency

i. Program staff and volunteers can release confidential information about a survivor during a medical emergency.

(a). Released information is relevant to the preservation of the health of an adult survivor or such a survivor's minor child in the event the survivor is not able to authorize the release or the survivor cannot be found in a timely manner.

(b). Released information is limited to the medical emergency.

(c). Released information is limited to the medical personnel or institution treating the adult survivor or minor child.

d. Fire Emergency

i. Where a fire exists, information that would otherwise be confidential may be disclosed to fire fighting personnel if such disclosure is necessary to preserve the health and safety of survivors, employees, or volunteers of the family violence program.

(a). Released information is limited to the fire emergency.

(b). Released information is limited to emergency fire and safety personnel treating the adult survivor or minor child.

e. Threats of Harm

i. Any form of firearm or weapon in the facility is prohibited even when locked in a locker at the facility. Program staff will include in their assessment for services appropriate questions to identify those survivors who possess firearms or other weapons and assist them in making arrangements for someone else to keep them while they are receiving services.

ii. Should a survivor pose a risk of harm to self or others, this information can be reported to an appropriate agency/individual. Program personnel will competently assess whether this disclosure is appropriate and necessary. Disclosure of this otherwise confidential information can be made to:

(a). licensed medical or mental health personnel or facilities, law enforcement personnel;

(b). identified, intended victim(s);

(c). the parent(s) of minor children making the threat.

Information released must be limited to that which is directly pertinent to the threatening situation.

f. Violence, Threatened Violence, or Other Crime by Survivor

i. In the event a survivor engages in or threatens to commit a violent act or other crime on the premises of a family violence program facility, such may be reported to law enforcement personnel. Program personnel will competently assess the circumstances and will disclose information only if deemed appropriate and necessary.

Released information must be pertinent to the threatening situation.

g. Search and Arrest Warrants Meeting Specific Criteria

i. Family violence program employees and volunteers release otherwise confidential information in specific circumstances:

(a). when law enforcement personnel present a criminal arrest warrant which names the individual and alleges that the individual is located at the program, or its street address;

(b). when law enforcement present a search warrant that specifies the individual or the object of the search and alleges that the individual or object of the search is located at the program, or its street address.

h. Subpoenas

i. The executive director or designee of each family violence program is the only person authorized to respond to subpoenas for the program, employee, former employee, or volunteer. Should a process server present him/herself at the family violence program, he/she is directed to the administrative offices where the executive director or designee may be found. Identity of the shelter location cannot be confirmed to the process server.

ii. Regardless of what type of subpoena and regardless of whether the subpoena is for an appearance for a deposition or for an appearance at court, the executive director or her designee should advise whoever issued the subpoena of the provisions of the R.S. 46:2124.1 which is the privileged communications and records statute for family violence programs.

iii. If a survivor who is residing in the shelter has not given written permission for the program staff or volunteers to acknowledge that she is in fact a resident of that shelter, the person shall advise the process server that the identity of shelter residents is confidential but that in an effort to be of assistance that they:

(a). obtain the name of the person to whom the document is directed;

(b). document the type of subpoena being served, i.e., subpoena for deposition, subpoena duces tecum, subpoena to appear at a court hearing, etc;

(c). obtain the name and telephone number of person requesting the subpoena (attorney, judge);

(d). obtain the date, time, and where to appear;

(e). obtain the name and telephone number of process server; and

(f). refer above information to the survivor (if known) or to the executive director or her designee or other appropriate person as dictated by policy of program.

i. Civil Child Custody Orders, Custody Papers, "Child Pick-up" Orders, Service of Process and Other Law Enforcement Documents.

i. These documents do not in and of themselves present grounds for violation of survivor confidentiality. As described above, any such order or document must be accompanied by a criminal arrest warrant or a search warrant designating the program as the location to be searched and a description of who or what the search is authorized to produce. The executive director or designee is the only person authorized to respond to civil child custody orders,

custody papers, "child pick-up" orders, service of process and other law enforcement documents.

j. Involuntary Commitment Orders

i. The statutorily protected privilege of confidentiality belongs to survivors, who have a right to know if legal documents have been issued that are addressed to or about them. Staff does not reveal that a survivor is in shelter or otherwise receiving program services. In the event of the attempted enforcement of a civil involuntary commitment order, staff, while maintaining privilege, makes every attempt to identify the name of the person trying to serve the order and any other relevant information. Staff then notifies the named survivor(s), when possible, of the order and the additional information.

k. Confidentiality Regarding Deceased Persons.

i. Family violence programs maintain confidentiality of records after the person is deceased. Records of the deceased person belong to the family violence program and programs are under no legal obligation to release them. Further, programs have no legal authority to release records unless ordered by a judge or if the deceased person has signed a release prior to her death. If, however, breaching confidentiality would assist in the prosecution of the perpetrator of violence, the executive director or a designee shall seek the counsel of an attorney prior to releasing information.

l. Confidentiality of Minors.

i. Except for the reporting of suspected child abuse and neglect or when a child is assessed to be of danger to her/himself or others, program staff is under no legal obligation to violate the confidence of a child.

m. Religious Activities.

i. Organized religious activities by an outside group or individual or staff within a shelter or non residential domestic violence program are prohibited. Survivor-directed initiatives for religious activities shall not be prohibited but must not take place in common, community shelter or program areas. However, staff who work directly with survivors are encouraged to be aware of the survivor as a whole person. Such staff will include the survivor's spiritual as well as physical, mental and emotional well being as a necessary part of their work with the survivor.

Survivors are not prohibited from considering their rabbi, priest, pastor, shaman, or any other member of an organized religion, as an ally who may visit the survivor under the same guidelines as any other ally.

3. Safety Planning

a. Family violence programs provide 24 hour per day staff to assist survivors of family violence with determining levels of danger/lethality and assist them to develop a personalized plan for safety.

b. Safety planning includes a danger/lethality assessment to determine the survivor's immediate level of danger, completed by trained advocates and documented in case notes or on a standardized form developed for the purpose of danger assessment.

c. Interim assessments are made during the shelter stay or nonresidential service.

d. Assessments screen for stalking and contain planning alternatives for stalking.

e. Safety planning meets the needs of the caller, i.e. a survivor wanting to leave, a survivor intending to stay, survivor with children and pets.

f. Safety planning is a continued process during a shelter stay or advocacy participation, especially at periods of increased risks, i.e. filing of court documents, court hearings, or any strategic move by the survivor or perpetrator.

g. Safety plans are survivor-directed, and staff facilitated/guided.

h. Safety plans are produced in a manner that allows for customization for individuals' specialized needs.

i. Safety planning contains emergency response protocols for use during in-progress emergency and in anticipation of an impending emergency. Minimum steps to assist survivors in determining existing options are provided to plan for the following:

- i. getting help or getting away;
- ii. accessing transportation;
- iii. accessing a linkage to outside helpers;
- iv. protocols for the safety of children and pets;
- v. securing belongings;
- vi. determining a safe, alternative escape location;
- vii. getting assistance from the family violence program.

j. Documentation of safety planning includes but is not limited to:

i. a logged note indicating that safety planning was offered during hotline calls;

ii. case notes or a standardized form indicating safety planning was offered during initial residential and outreach intake services;

iii. case notes or a standardized form indicating safety planning was offered on a regular basis and especially during changes in a survivor's plans or in event of a significant occurrence affecting the survivor, survivor's children or the batterer. Examples: the survivor's court appearances, resumption of or beginning new job, an order for visitation of children by the batterer, a batterer being served stay away orders or being released from jail after an arrest involving the survivor and/or children.

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§1724. Program Administration and Service Delivery

A. Basic Considerations. These standards encompass the overall practices and procedures that the program needs to ensure that survivors receive the services they are eligible for, interested in and in need of. Also, that those services are delivered in a manner which is survivor centered, non-judgmental, culturally sensitive and protects the dignity and right to self determination of the survivor. These standards include procedures for documentation of services, incident reporting, and grievance procedures addressing the relationship between philosophy and practice.

B. Standards.

1. General Administration

a. The executive director exercises full responsibility for the day-to-day management of the organization.

b. Staff is responsible for implementing policies.

c. The program maintains an internal structure for efficient and effective administration.

d. The service delivery plan fulfills the program's mission.

e. Services are survivor centered, non-judgmental, culturally sensitive and strive to empower persons served.

f. The organization measures the efficiency and effectiveness of its management function.

g. Programs are conducted in accord with applicable professional, ethical and legal principles.

h. Service statistics are maintained and used in accord with acceptable practices.

i. The program identifies the area and population it serves in its brochures and reports.

j. The program recognizes and respects the autonomy, dignity and rights of program participants.

k. Relevant goals, objectives and plans are established for service delivery management.

l. The program seeks to serve persons who need its services and works to eliminate barriers to the provision of quality service to those who seek service.

m. The program provides access to crisis information and shelter 24 hours a day.

n. The program conducts intake services in accordance with acceptable practices.

o. The program conducts orientation for persons to be served. Persons is defined to include adults and children.

p. The program has a system for case management. It regularly plans, monitors and assesses the progress of each person served.

q. The program designs communal living policies which stress non-violence, are fair and survivor centered. Policy enforcement balances the rights of survivors with the need to ensure safety for survivors who choose not to follow policy.

r. The program works collaboratively with other family violence programs throughout the state and in other states as appropriate to meet the safety and security needs of survivors.

2. Assessing for Appropriate Services.

a. Within initial contacts with survivors, staff assesses for the following:

i. eligibility for support and intervention services;

ii. immediate safety;

iii. batterer's potential for lethality;

iv. closely analyze batterer dynamics in same sex relationships to assure the person requesting services is the survivor, rather than the perpetrator;

v. special delivery needs based on a disability;

vi. special needs based on the requirements of a person's self-identified religious, cultural, ethnic, geographic or other affiliation(s);

vii. other appropriate services.

3. Appointments and Availability of Services

a. Intervention staff, whether shelter or nonresidential, is provided during times when most survivors need to access and receive services.

b. Survivors are informed of the process by which they may gain access, informally and by appointment, to advocates within the program in which they are receiving services.

c. At the time appointments are made, staff assists individual survivors in developing a safety plan, as necessary, for traveling to and from appointments.

4. Grievance Policy and Procedures

a. The program develops, and exercises the use of, when appropriate, a written grievance policy to be given to every survivor upon admission to services. The procedures shall include, but not be limited to:

i. procedures to follow in the event a survivor believes they have been denied services;

ii. procedures to follow in the event a survivor is dissatisfied with the quality of services;

iii. procedures to follow in the event a survivor is dissatisfied with behaviors of a staff person.

5. Incident Reports

a. The organization provides a written policy to assure serious incidents are properly reconciled. Individual reports will be written for any injuries, accidents, unusual events or circumstances involving staff, volunteers, visitors, vendors, or survivors. Staff are informed regarding what would constitute each. Provisions are made for evaluation of severity of the incident and any follow-up actions needed.

6. Community Relations

a. The program is readily identifiable and visible among its potential users, peer organizations and appropriate publics. Public relations and public education materials are available in other languages for any ethnic group with a presence in the community and the geographic area served and for special needs populations.

b. Policies for community relations and fund development are comprehensive and practical.

c. Relevant goals objectives and plans are established for community relations and fund development

d. Community relations and fund development are conducted in accordance with applicable professional and ethical and legal principles.

e. The program uses designated personnel to implement its policies and procedures for community relations and financial development.

f. The program follows acceptable practices for public disclosure.

g. The program has accurate statistical data relevant to its services readily available.

h. The program conducts a public education program that raises the community's awareness of the causes, implications and the appropriate community response to family violence.

i. The program conducts a public relations program that projects an accurate positive image throughout its service area and raises the community's understanding of and support for its services.

j. The public education and public relations efforts reflect the program's philosophy and that philosophy is consistent with that of the OWS.

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§1725. Facility, Safety, Security and Health

A. Basic Considerations. These standards encompass the overall practices and procedures that the program employs to ensure that the facility and grounds that the program rents or owns are appropriately accessible, functional, attractive, safe and secure for the persons served, visitors, employees and volunteers. They ensure that the program meets legal requirements regarding access, safety and health as well as acceptable standards of cleanliness and functionality.

B. Standards

1. All facilities meet ADA standards.
2. Policies for the management of facilities are comprehensive and practical.
3. The program adheres to all applicable zoning, building, fire, health and safety codes and laws of the State and of the community in which the organization is located. Programs are annually monitored by the Office of Public Health and the State Fire Marshall.
4. Relevant goals, objectives and plans are established for building and grounds, safety and health.
5. The program uses designated personnel to implement its policies and procedures relative to facility, safety and health.
6. Comprehensive evaluations are conducted on a regular basis to measure the efficiency and effectiveness of the operations and maintenance of buildings and grounds, safety and health.

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HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:533 (April 2001).

§1726. Financial Management and Fund Development

A. Basic Considerations. These standards stress that Generally Accepted Accounting Practices (GAAP) with regular internal and external reports and audits, are the foundation for prudent management of capital, endowment and operating income and expenses. It is the role of the governing body to ensure financial accountability and that the bulk of the program's resources are used to meet service needs.

B. Standards

1. Policies for financial management are comprehensive and practical.
2. Relevant goals, objectives and plans are established for financial management and long term financial stability.
3. Financial management is conducted in accordance with applicable professional, ethical and legal principles. Generally accepted accounting procedures and practices are implemented as required by the terms of the contract.
4. The program uses or contracts with designated and appropriately qualified personnel to implement its policies and procedures for financial management.
5. The program provides bonding of staff responsible for financial resources. It is recommended that the program provide and maintain adequate liability coverage for the governing body.
6. The program prepares financial statements that clearly and fairly present the organization's financial position.
7. The governing body adopts and the executive director implements comprehensive budgets in accordance with acceptable practices.
8. The governing body continuously reviews and analyzes its financial position.
9. The governing body adopts and regularly reviews salary range schedules and adheres to minimum wage laws.
10. The program prudently manages its operating, endowment and capital funds.
11. The program has sufficient cash flow to meet its operating needs
12. The program maintains adequate cash reserves.

13. The program does not enter into any agreement, written or otherwise, where public funds are paid, or committed to be paid, for services or goods, to any member of the governing body, staff, or members of the immediate family of said governing body or staff, or to any entity in which the foregoing have any direct or indirect financial interest, or in which any of the foregoing serve as an officer or employee, unless the services or goods are provided at a competitive cost or under terms favorable to the program. The program maintains written disclosures of any and all financial transactions in which a member of the governing body, staff, or their immediate family is involved.

C. Fund Development

1. The program has a long and short range fund development plan.
2. The program conducts a fund development program which secures sufficient funds to cover its operating and capital needs.
3. The program builds and maintains adequate financial reserves.
4. The governing body initiates and actively supports fund development efforts.
5. The program comprehensively evaluates community relations and fund development programs to measure efficiency and effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

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§1727. Staff and Volunteer Management

A. Basic Considerations. These standards encourage strong professional values. They assume that written policies and consistent practice are the cornerstone of a quality human resource system.

B. Standards

1. Policies for the management of staff and volunteers are comprehensive and practical.
2. Relevant goals, objectives and plans are established for staff and volunteer administration.
3. The administration of staff and volunteers is in accordance with applicable professional, ethical and legal principles.
4. The program employs sufficient staff and delegates sufficient authority to ensure the responsibilities the program undertakes are adequately carried out.
5. Comprehensive performance evaluations are conducted to measure the efficiency and effectiveness of staff and volunteer administration.
6. The program promulgates personnel policies that attract and retain qualified personnel.
7. A comprehensive manual containing all personnel policies is maintained, kept current, and made available to all staff.
8. The personnel policies provide for hours, leave and benefits that are designed to attract and retain qualified staff.
9. The program establishes written qualifications for all positions and employs persons who meet or exceed those qualifications.
10. Acceptable practices are followed for recruiting, hiring and assigning staff. Responsibility for hiring is clearly defined.
11. A written employee grievance policy is provided.

12. Acceptable screening practices which serve to protect the program and its clientele are clearly defined and followed. Employers, staff, or others responsible for the actions of one or more persons who have been given or have applied to be considered for a position of supervisory or disciplinary authority over children, with the permission of said person, will have a criminal history records check conducted. (R.S. 15:587.1)

13. The program recruits a diverse staff which is reflective of the community and geographic area in which the program is located.

14. Acceptable practices are followed for orientation, development and training of staff. Training content is compatible with OWS and LCADV's statement of philosophy. Forty hours of family-violence related training is required for staff. Sixteen hours of orientation for new staff is required plus 20 hours of training in the first year. Experienced staff accompany new employees at all times and they are not given sole responsibility for working with survivors until orientation is complete.

15. Acceptable practices are followed in supervising and evaluating staff. Clear times of supervision and reporting are established.

16. Acceptable practices are followed in terminating employment of staff. Responsibility for terminating employment is clearly defined

17. A job classification system and salary ranges are maintained to attract and retain qualified personnel.

18. Comprehensive and current job descriptions are available for all staff positions.

19. A comprehensive confidential personnel record is maintained for each staff member.

20. Staff providing direct services are provided opportunities for debriefing to prevent burnout in an on-going forum, such as weekly staffing, maintenance or supervision meetings.

21. The program determines the need for volunteer services and utilizes the services of volunteers as appropriate.

22. The program adopts policies that attract and retain qualified volunteers.

23. A comprehensive volunteer manual containing all volunteer policies and practices is maintained, kept current and made available to volunteers. This manual includes policies and procedures regarding recruitment, screening, training, supervision and/or dismissal of volunteers used to provide both direct and non-direct services. The manual clarifies the roles and contributions of volunteers to the program's provision of service, with specific detail addressing how, when, where and the frequency with which volunteers will be used.

24. Comprehensive and current job descriptions are available for volunteer positions.

25. A comprehensive, confidential personnel record is maintained for each volunteer which includes, but is not limited to a signed confidentiality statement and a record of trainings completed by the volunteer.

26. The volunteer policies provide for hours, benefits and recognition that are designed to attract and retain qualified volunteers.

27. Acceptable practices are followed in recruiting, screening and assigning volunteers. Screening practices serve to protect the program and its clients.

28. Acceptable practices are followed in the orientation and training of volunteers. The organization must provide volunteers with 20 hours of training. Training content is compatible with OWS and LCADV's statements of philosophy.

29. Acceptable practices are followed in the supervision, evaluation and termination of the participation of volunteers.

30. Volunteers are qualified for their responsibilities.

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§1728. Eligibility

A. Basic Considerations. These standards assure equal provision of services to family violence survivors and their dependents.

B. Standards

1. Persons eligible for the services of family violence programs include, but are not limited to family violence survivors, their legal dependents, and those that are or have been in danger of being emotionally, physically or sexually abused and meet the following criteria;

a. adults, legally emancipated minors, or minors granted permission for services by a parent, guardian, judge's order or caretakers of eligible persons;

b. in the event of non-emancipated minors seeking services for themselves, programs shall acquire parental permission prior to providing applicable services;

c. those eligible under the above definition who are/have been abused, or who believe they are in imminent danger of being abused, by their current or former intimate partner;

d. those eligible above who have no safe place to go;

e. those eligible above who willingly agree to abide by program guidelines;

f. those with the ability to take primary care of themselves and their dependents within a communal living facility.

2. Programs provide services regardless of race, religion, color, national origin, gender, age (within above guidelines), mental or physical disability, sexual orientation, citizenship, immigration status, marital status or language spoken.

3. Programs provide services to male survivors who are eligible through collaboration with other organizations.

4. No minor dependent males or females with their parent or guardian are denied access to services on site. Survivors and their dependents may become ineligible if there is evidence that supports a history of violence and the refusal to follow safety guidelines either for themselves or others to cause the environment to become unsafe. Programs may apply to OWS for exemptions because of facility restrictions. Limited exemptions may be given on a case by case basis on presentation of a workable plan.

C. Special Needs and Circumstances

1. Alcohol or drug abuse and addictions: Family violence programs do not withhold services to persons using alcohol or drugs, off the program property, solely based upon the use of the alcohol or substance. Programs provide a written policy demonstrating how repetitive substance/alcohol use, or the demonstration of behaviors incongruent with community living, may affect continued stay in a facility or the limitations of other services available.

2. In cases where survivors require assisted living, eligibility is not withheld, but services made available through coordinated efforts between family violence program staff and other identified service providers.

D. Length of Stay (Emergency Shelter/Safe Home)

1. Programs offer safe shelter for a minimum of six weeks. Survivors are informed of the minimum length of stay and any criteria which may impact or shorten this stay.

2. Extensions of length of stay are contingent upon the survivor's progress toward meeting self-identified goals.

3. Reasons for denial of extensions requested by a survivor are documented in the case file and shared with the survivor in sufficient time for her to make other safe arrangements if necessary.

E. Repetitive Admissions

1. No program shall place a limit on the number of admissions to shelter without the presence of at least one of the ineligibility criteria.

F. Ineligibility

1. In some instances, applicants and current survivors may be denied services. Programs inform survivors seeking residential services of these instances as soon as possible in order for them to make a more enlightened decision about choosing to come to shelter, instead of waiting until intake when they have already risked leaving their abuser.

G. Criteria

1. The extent to which these criteria affect the long-term or future eligibility for services must be evaluated and documented on a case-by-case basis.

a. Not an adult or emancipated minor, or granted permission.

b. Active suicidal or homicidal behaviors.

c. Previously been disqualified from services.

2. In the event the program cannot admit new survivors due to capacity, every effort is made to secure and facilitate admission to safe alternate accommodations. This placement may include, but not be limited to hotel/motels, safe homes, LCADV/OWS sister shelters, homeless shelters, or other facilities which can be safely and confidentially provided.

3. If, prior to admission, a person is determined ineligible for shelter services, information and referrals are made for other appropriate services.

4. If, after admission, a person is determined to be ineligible for services, program staff:

a. refers the person(s) to appropriate services elsewhere;

b. assists the person(s) with accessing transportation, if possible, to receive the services.

5. Programs maintain written protocols outlining the location(s) and methods by which shelter, advocacy/counseling, and other services are delivered to eligible adult and minor male survivors needing services.

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§1729. Residential Services

A. Basic Considerations. These standards assure family violence programs provide appropriate and quality services to survivors of family violence and their children in an empowering, non-blaming way.

B. Standards

1. General

a. Family violence shelters provide access, admittance and residence in temporary shelter for survivors of family violence and their children 24 hours a day, every day of the year.

b. Shift coverage provides on-site staff coverage 24 hours a day, 7 days a week when a survivor is in residence at the shelter and/or when the hotline is answered at the shelter facility.

c. Regardless of the shift requirements, the first priority of the staff is to be responsive and accessible to a resident or hotline caller.

d. A family violence program provides a back up system for use during emergencies. A supervisor or designee is available "on call" by way of pager or in some manner of contact that allows for immediate response. Each program establishes a protocol that defines criteria and steps for using the back-up system.

e. Family violence programs provide a record of individual and group supervision for shelter employees. Supervision is implemented no less than monthly for part-time employees (20 or less in a week) and biweekly for full-time employees. Documentation of supervision for volunteers is recorded and implemented as if they were part time employees.

f. Documentation of staff/volunteer supervision reflects the fact that the supervision took place and a listing of general subject(s) covered in the session is in the personnel or volunteer's file. In the event of problems related to staff performance, documentation is performed according to the program's personnel policies.

g. Procedures for adequate staff communication to provide continuity of service for survivors, including a regular review of any problem areas to resolve, will be developed and implemented.

2. Shelter Services

a. Every survivor is provided:

i. emergency shelter which is structurally safe and accommodates the particular security concerns of family violence survivors. The method of providing this security needs to be documented and this knowledge made available to survivors;

ii. confidentiality of stay at shelter. This is documented in a form and signed by the survivor during intake;

iii. emergency food, clothing, and hygiene items free of charge to adult survivors and their children. When medical services are needed the program helps survivors access services.

b. Advocacy/intervention services, including safety planning for the shelter stay and travel outside the shelter, are available and offered 24 hours a day, every day of the

year, with trained advocates on site to provide face-to-face emergency services.

c. Family violence shelters ensure that staff members:

i. have immediate face-to-face contact with a new survivor admitted to shelter to help determine emergency needs, orient them to the shelter facility and procedures;

ii. conduct a formal face-to-face intake process with a new survivor upon admission to shelter and answer any questions the survivor may have. During this time the staff gives the survivor a copy of shelter guidelines and education material on family violence, being very sensitive to the survivor's ability to read and understand. The staff person doing the intake is trained on discipline guidelines for children in the shelter and how to assist the mother on following these guidelines through appropriate discipline techniques;

iii. sign a written agreement with each survivor about services to be provided by the shelter, which include but are not limited to:

(a). program services, its staff and volunteers;

(b). confidentiality agreements, including records;

(c). house guidelines, rights and privacy matters;

d. House guidelines are written in positive and respectful language, including those guidelines posted throughout the house. The purposes of the guideline is for protection, safety or health. Guidelines are limited to the most crucial of situations and reflect the intent to show that the shelter facility is the survivor's home. (OWS with the assistance of LCADV will review program guidelines and offer suggestions.) House guidelines include only those items under the following three categories:.

i. Safety

(a). around confidentiality issues (confidentiality of staff and survivors and program locations, etc.);

(b).

around security issues (possession of weapons, locked doors, etc.); and

(c). around physical safety (threats or acts of violence including discipline of children, etc.)

ii. Group Living

(a). programs encourage cooperation between survivors in communal living;

(b). programs make every reasonable effort to keep a survivor eligible for services regardless of her ability or willingness to participate in daily upkeep of the shelter facility and to adhere to the health and safety guidelines.

iii. Respect for Self and Others. Demerit and warning systems are not used.

iv. Survivors constitutional right to privacy in their person, property, communications, papers and effects is respected at all times by programs. Survivors are not under any circumstances subjected to unwarranted or unreasonable searches conducted by shelter staff of the survivors person, room, or property. However, circumstances may arise at a shelter where some sort of search may be necessary to protect the health or safety of other survivors or staff.

e. All survivors residing in the shelter for more than 72 hours are provided with an individualized service plan. The survivor plan reflects assistance to survivor's needs.

Programs design service plans to facilitate revision in the event circumstances change. This plan includes

i. release of information agreements;

ii. an individual or family plan of self-defined goals and actions to address needed services to maintain safety and create self-sufficiency;

iii. list of guidelines for children in the shelter;

iv. length of stay policies.

f. A protocol is developed by each program for safe travel of all survivors. All protocols contain a provision for survivor travel to the shelter for intake. Further, the protocol reflects survivors need for local travel whether provided by themselves, the program or public/private carriers.

3. Discharge of Survivors

a. Family violence shelters establish a length of stay policy that is flexible and that balances the needs of survivors and the program's ability to meet those needs. Length of stay policy cannot be shorter than six weeks.

b. Shelters document the attempt to provide an exit interview with each survivor prior to their departure. Minimum categories of exit interview include, but are not limited to, an assessment of program services, treatment by staff (respectful, helpful, available), knowledge of staff in the areas of dynamics of family violence, children's services, safety planning, and goal planning. This is to be completed by survivor through use of a survivor friendly survey. The exit interview provides for a revision of the survivor's safety plan (inclusive of children's safety issues) and linkage to outreach and/or follow up services provided by the program and other community resources. These items are listed in detail on an exit interview form. The exit interview survey and form must be approved by OWS and LCADV.

c. Involuntary Discharge. Shelters must make every effort to work with a survivor in order for them to remain in shelter, except for situations which compromise the safety of others such as:

i. the use of violence or threats of violence;

ii. the use of behavior that repeatedly disrupts the ability of other survivors/children to receive safe and effective services;

iii. possession of illegal substances;

iv. possession of firearms, stun-guns, knives or any other weapon that may be used or by accident to threaten a life;

v. active suicidal or homicidal behaviors;

vi. violating the confidentiality of another resident.

d. An individual service plan/contract is developed with the survivor and appropriate documentation placed in the survivor's file which demonstrates attempts to assist the survivor and/or her children with problematic/disruptive behaviors.

i. Example A. A survivor is drinking alcohol and returning to the shelter intoxicated. Once sobriety is established, the program staff addresses this problem with the survivor and offer to develop a contract or service plan regarding this situation, such as requiring the survivor to attend AA meetings and assisting the survivor to those meetings. If the contract is not followed or the situation reoccurs, then steps to find other resources for the survivor are offered. If this is not accepted, the survivor may be asked

to leave. The contract and service plan are documented in survivor's file to reflect the process of offering assistance.

ii. Example B. A survivor's child's behavior is repeatedly disruptive or destructive. A worker addresses this problem with the survivor/parent and offers suggestions to remedy this by developing a plan which may include alternate resources such as a parental support group or referrals to other appropriate child service providers in the community.

e. Survivors may be asked to leave under the following circumstances:

- i. credible threats to others, with intent to harm;
- ii. unresolved disruptive or abusive behavior; or
- iii. if the safety of the shelter is compromised by their continued presence.

4. Re-entry

a. Shelters do not discriminate against a survivor by limiting the number of times of re-entry or by requiring a time limit between re-entry. Programs do not maintain a "no re-admit" list; however, it is permissible to "not admit at this time" if a survivor is not currently appropriate. This information is documented in survivor's file. Reentry status reflects the survivor's need and behaviors at the current time and is not based on past situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:536 (April 2001).

§1730. Intervention Services

A. Basic Considerations. These standards assure quality intervention services provided within family violence programs.

B. Standards

1. General

a. The first priority of the staff is immediate response and accessibility for a hotline caller.

b. A family violence program provides a back up system for use during emergencies. A supervisor or designee is available "on call" by way of pager or in some manner of contact that allows for immediate response. Each program establishes a protocol that defines criteria and steps for using the back-up system.

c. Family violence programs keep a record of individual and group supervision for shelter employees. Supervision is implemented no less than monthly for part-time employees (20 or less in a week) and biweekly for full-time employees. Documentation of supervision for volunteers is recorded and implemented as if they were part time employees.

d. Documentation of staff/volunteer supervision reflects the fact that the supervision took place and a listing of general subject(s) covered in the session in the personnel or volunteer's file. In the event of problems related to staff performance, documentation is performed according to the program's personnel policies.

e. A protocol is developed by each program for safe travel of survivors. Protocols contain a provision for survivor travel to the shelter for intake. Further, the protocol reflects survivors need for local travel whether provided by themselves, the program or public/private carriers.

f. Programs document the attempt to provide an exit interview with each survivor prior to their departure. Minimum categories of exit interview include, but are not

limited to, an assessment of programs, services, treatment by staff (respectful, helpful, available), knowledge of staff in the areas of dynamics of family violence, children's services, safety planning, and goal planning. This is completed by the survivor through use of a survivor friendly survey. The exit interview provides for a revision of the survivor's safety plan (inclusive of children's safety issues) and linkage to outreach and/or follow up services provided by the family violence program and other community resources. These items are listed in detail on an exit interview form. The exit interview survey and form is approved by OWS and LCADV.

g. Advocacy, case management and counseling services of family violence programs are empowerment-based and survivor directed. Empowerment-based intervention refers to survivor-directed interventions or services in which the survivor or recipient of services receives the support and assistance of trained staff who provide safety planning, assistance with meeting physical and emotional needs, education regarding the dynamics of domestic violence and living skills based on a case by case assessment. Empowerment also means allowing the survivor to make her own life choices within the basic eligibility guidelines of the program without coercion or threat of loss of services provided by the program.

h. Participation in intervention services shall be voluntary.

i. Methodology

i. Intervention services are provided in a manner best suited for individual survivors.

ii. The methods selected is provided only with approval of survivors.

iii. Family violence shelters/nonresidential services and outreach services include individual and group intervention services.

iv. Sessions are provided, as appropriate, to individual survivors.

v. Shelter residents are notified in writing that they have at least one hour per day, five days per week of individual sessions available to them at their request. Such sessions are provided by staff trained in techniques of individual, one-on-one intervention and focus on issues of safety planning for the survivor and dependents, physical and emotional needs assessment, planning for meeting those needs, education on the dynamics of family violence and knowledge of community resources with phone numbers provided and available for survivors and children.

vi. Group sessions for survivors and their dependents (separately) are provided, as appropriate, no less than once a week.

vii. Shelters provide developmentally appropriate, multi-age play groups for children on a daily basis during the week. Child care is provided during the parent's initial intake and individual and group sessions if play groups are not available during that time.

j. Restricted Methods

i. Couples counseling, in any form, is not provided by family violence programs.

ii. Family counseling that includes the presence of an alleged batterer is not provided by a family violence program.

iii. Mediation services are not provided or accommodated by family violence programs.

iv. Batterer Intervention Services are not allowed to take place on or near the premises of the family violence program. Furthermore, individual staff is not allowed to work with both survivors and batterers. Job descriptions for individual family violence program staff working with survivors and their dependents do not include work with the abusers. No staff whose responsibility it is to provide direct services to survivors, or to supervise or direct programs for survivors, is allowed to participate in or lead batterer intervention program services. These two programs remain entirely separate so that it is apparent to survivors that there is no conflict of interest within the program or staff. This does not, however, preclude staff from overseeing, for the purposes of holding accountable, batterer intervention program services.

k. Types of Intervention Services

i. Advocacy is defined as the performance of direct intervention in behalf of and with the permission of survivors, to further goals and objectives initiated by the survivor.

(a). Advocacy contacts addressed to individuals or groups not directly employed by the family violence program are not initiated without the survivor's direct permission. Proof of permission is provided by program staff by the recording of such on an approved Release of Confidential Information Form.

(b). Advocates provide only information necessary to achieve the goal of each individual advocacy contact.

ii. Counseling is defined as any individual or group interaction facilitated by program staff for the purpose of addressing emotional needs of adult or child users of services:

- (a). crisis counseling;
- (b). peer counseling;
- (c). supportive counseling;
- (d). educational counseling.

iii. Case Management is defined as any individual or group interaction facilitated by program staff for the purpose of assisting survivors with assessing needs, setting priorities, goal setting, implementing objectives, locating resources, or performing any activities pertaining to the accomplishment of goals. Case management is based upon survivor-identified goals and not a standardized or 'cookie cutter' formula. Case management shall reflect, at least the following:

- (a). identify and prioritize survivor's needs, including safety planning;
- (b). identify resources available to survivors;
- (c). develop goals and objectives specific to the survivors' own goals and record these in a program-approved service plan;
- (d). staff internal and external referrals to assist in goal/objective achievement;
- (e). correlation with survivor's length of stay, if in a shelter;
- (f). progression toward completion of survivor's goals and objectives;
- (g). adaptation to survivor's changing needs, as appropriate.

1. Provision of Services

i. Each survivor in a shelter will be assigned a resident-advocate/counselor. This staff person is available to meet with the survivor daily, Monday through Friday. Daily face-to-face interaction with the survivor is made available to her in order to check on her safety and other needs and to offer to schedule a meeting time. If the survivor works, the survivor's advocate/counselor may contact survivor via telephone or visiting at workplace if this is desirable and chosen by the survivor.

ii. In the event that a advocate/counselor is sick or on vacation, it is that advocate/counselor's responsibility to make sure that another staff member meets with the survivor on that day. This is documented in the survivor's file.

iii. Empowerment advocacy does not mean the advocate/counselor sits and waits for the survivor to come to her office. Many times survivors of family violence need assistance to ask for the things they need and need to have this modeled for them. This is the advocate/counselor's responsibility to daily offer and model empowerment to survivors.

m. Appointments and Availability of Services

i. Intervention staff, whether shelter or nonresidential, is provided during times when most survivors need to access and receive services. Survivors are informed of the process by which they may gain access, informally and by appointment, to advocates within the program in which they are receiving services.

ii. At the time appointments are made, staff assists individual survivors in developing a safety plan, as necessary, for traveling to and from appointments.

2. Documentation

a. Documentation for Advocacy, Counseling & Case Management contains at least:

- i. demographic data;
 - ii. lethality assessment;
 - iii. history of abuse;
 - iv. safety plan;
 - v. description of the abuser;
 - vi. individualized service plan;
 - vii. children's assessment (if children in the family);
 - viii. notification of exceptions to confidentiality, advising survivors of advocate's duty to release confidential information in the following circumstances:
 - (a). report child abuse;
 - (b). protect against danger to self or others;
 - (c). summon emergency services;
 - (d). maintenance of safety and health standards of shelter facilities;
 - ix. release of liability form;
 - x. informed consent to release confidential information form(s);
 - xi. exit interview.
- b. Documentation for Advocacy contains at least:
- i. demographic data and appropriate releases of information as needed; and
 - ii. document dates of advocacy and contact.

c. Documentation for Case Notes reflects the following:

- i. notes are entered in chronological order;
- ii. notes have full signature of advocate/counselor;
- iii. entries are made immediately after all survivor contact;
- iv. white-out is not used;
- v. only necessary facts are recorded;
- vi. notes do not contain any diagnosis or clinical assessments;
- vii. notes on one survivor do not include other survivor names;
- viii. errors are corrected by drawing one line through it, write "error;" and
- ix. initial; then continue with note.

3. Computer Generated Case Notes

a. In the event of the use of computer-generated case notes or survivor records, it is the responsibility of each family violence program to assure confidentiality of information. Each program must maintain a written policy and accompanying procedures that reflect security measures. These contain, but are not necessarily limited to:

- i. a generalized policy stating the responsibility of all staff and volunteers to assure survivor confidentiality;
- ii. a standardized protocol for creating and securing computerized survivor data on all computers including portable laptops:

(a). stating which data entries are allowable and those which are not;

(b). outlining use and storage of disks;

(c). outlining the uses and protection of hard-drive storage (including protocols for use of passwords);

(d). outlining the use and methods of network systems storage;

(e). outlining protocols for the creation, routing and storage of hardcopy materials generated from computer-based records. Further, programs provide the following:

(i). access to computerized confidential records is protected by the use of appropriate software and passwords;

(ii). protocols for timely download or deletion of survivor-related information is provided when computers are shared without use of passwords;

(iii). in the event a protocol includes use of a computer's recycle bin, staff are required to delete the information from the recycle bin as a final step in the process of deleting confidential files.

4. Support Groups

a. Interactive group sessions are topic oriented, or informational and educational, and conducted in a process that is survivor-directed, and facilitated by qualified trained program staff/volunteers.

b. Family violence programs highly recommend that the adult survivors attend a minimum of three support groups while residing in a shelter or when being seen individually in non-resident advocacy. The unwillingness for this to occur by the survivor may not be used as a reason to remove survivors from programs. Also, children of adult survivors may not be restricted from attending children's group if the mother refuses support group, although the

mother may be required to remain at the program while her child is in group.

c. Family violence programs provide at least one weekly group for adult survivors while providing at the same time, a multi-age play group for the children of the adult survivors. If the children's group is not always possible, then at the very minimum, appropriate child care is provided during the adult survivor's group.

d. Support group attendance is documented in each survivor's file to include, date of group, topic of discussion, any factual information pertinent to the survivor and signed by the group facilitator.

e. Family violence shelters are encouraged to provide support groups to residents and non-residents, including former residents.

f. Support group services provide understanding and support, which includes, but is not limited to:

i. active and reflective listening;

ii. addressing the needs identified by those attending group session;

iii. building self-esteem;

iv. problem solving;

v. recognition that survivors are responsible for their own life decisions and that batterers are responsible for their violent behavior.

g. Support group services provide education and information that includes, but is not limited to:

i. how batterers maintain control and dominance;

ii. the role of society in perpetuating violence against women;

iii. the need to hold batterers accountable for their actions;

iv. the social change necessary to eliminate violence against women, including discrimination based on race, gender, sexual orientation, disabilities, economic or educational status, religion or national origin.

5. Court/Legal Advocacy

a. Family violence programs providing court advocacy assist survivors in receiving self-identified interventions and actions sought from the civil and/or criminal justice systems.

b. Court advocacy is provided by qualified, trained staff members or volunteers.

c. Family violence programs providing court advocacy services:

i. assure that appropriate staff and volunteers have a working knowledge of current Louisiana laws pertaining to family violence, as well as the local justice system's response to family violence, including court rules, in each parish services are provided.

ii. strictly monitor and prohibit staff members and volunteers from practicing law or providing legal representation if they are not properly certified to engage in such a legal practice.

iii. maintain a current list of local criminal and civil justice agencies and contact persons in each parish where services are provided.

iv. maintain a current referral list of local attorneys, including pro bono resources, who are sensitive and familiar with legal issues and orders of protection, for representation in civil and criminal cases, with contact person identified in each parish where services are provided.

v. train and offer assistance to the criminal and civil justice system within the parishes served, in order to build a working relationship and institute a law enforcement protocol involving family violence.

d. Family violence programs that provide court advocacy services provide the services in shelter and nonresidential settings.

e. Court advocates are responsible for documenting services provided and the outcome of those services in each survivor's file. If volunteers provide services, court advocates obtain the necessary information and document.

6. Children's Services

a. Programs have on staff a child advocate/counselor who is trained in a minimum of the following areas:

i. the developmental stages of childhood, including physical, social, cognitive, and emotional stages;

ii. developmentally appropriate process;

iii. a working knowledge of family violence and its effects on children (including the ways that mothers are often revictimized by the child welfare and educational system, etc.);

iv. assertive discipline techniques,

v. non-violent conflict resolution,

vi. the warning signs of child abuse,

vii. appropriate methods for interviewing children who have disclosed abuse,

viii. how the child welfare system works and their role as "mandated reporters."

b. Child Services include but are not limited to:

i. at shelters, child advocates conduct a child intake interview with the mother of the child(ren) within 48 hours of shelter arrival. Nonresidential programs conduct a child intake as soon as possible after the survivor's initial contact with the program. Intake forms are completed by the mother. Intake forms include areas of concern the mother has for each child, physical needs of the child, social or educational needs of the child, education level of the child, any learning disabilities or diagnoses, medications the child is on and what they are for, any child abuse suspected or documented, type of discipline used in the home and its effectiveness, check list for problem areas, such as, weight, eating, sleeping, hygiene, motor skills, language skills, bedwetting, handling conflict, relationship with adults and with other children;

ii. at the intake interview, the child advocate discusses child guidelines in detail, including discipline guidelines, offers help and guidance in following the guidelines, discusses child services offered. This information is documented in the survivor's record. If programs offer booklets giving this information, they can be given in addition to the required face-to-face interview with the mother;

iii. child advocates provide a physical and social assessment of each child within the first 72 hours of shelter and make appropriate referrals and appointments to meet the areas of need. In nonresidential programs the assessment follows the initial intake;

iv. child advocates have a face-to-face meeting with each child or sibling group within 48 hours of shelter following the child intake interview. In this meeting the child advocate introduces herself, lets the child(ren) know

she is there to help them in any way she can, provides a tour of the shelter, talks about the guidelines of the shelter, and the discipline guidelines. Some programs may provide shelter books which cover this material, but this does not replace the face-to-face meeting with the child(ren);

v. child advocates and trained volunteers conduct a daily (M-F) 2 hour playgroup for children from the ages of 3-11. In nonresidential programs playgroups are held at the time that survivors are in support groups. This playgroup is a time to allow children to play in a safe, structured environment. The playgroup is to be based on a developmentally-appropriate philosophy. While the playgroup is planned and facilitated by the child advocate, the child directs her/his own progress in the group. This is to empower the child, offering the child a safe and appropriate place to say "no" and to learn consistency, structure, and non-violent conflict resolution;

vi. goals of the playgroup are: breaking the "conspiracy of silence", how to protect oneself, to have a positive experience, strengthening self-esteem and self-image;

vii. each child with the assistance of the child advocate develops a personalized safety plan. The plan addresses living at the shelter and also if the mother returns to the perpetrator. Both safety plans are done as soon as possible because no one knows when the mother may return. This is documented in the mother's file;

viii. child advocates may conduct a weekly education group for the mothers, including education on developmental stages and discipline techniques. Group attendance and topic to be discussed are documented in each survivor's file;

ix. child advocates are available to meet with each mother at least once a week in an individual session. This is a time when mothers can share problems they are having and get assistance with the solutions. Methods of parenting education are respectful and non-victim blaming of the adult survivor;

x. if at all possible, each child or sibling group is given an exit interview. In this interview child(ren) can assess child services and staff in some type of developmentally appropriate way. Safety planning and discussion of transition period are discussed. Exit interview is documented in survivor's file.

7. Crisis Line or Hotline

a. Family violence programs operate a 24-hour a day, seven day a week crisis line answered by a qualified, trained staff or volunteer.

b. Hotline numbers are listed in the local telephone book and widely distributed in areas served by the FV program.

c. Hotlines are answered using the name of the family violence program.

d. Hotlines are answered by trained staff or volunteers of the programs. The use of commercial or mechanical answering services is prohibited. Volunteers are not allowed to make final determinations about shelter eligibility.

e. Programs have a minimum of two telephone lines, one of which is the designated hotline.

f. Hotlines have call block, to safe guard against caller ID and *69 services. Local telephone companies can assist with needed information and services.

g. When holding/transferring calls

i. Staff completes initial assessment as to immediate danger before putting caller on hold.

ii. Callers on hold are checked back with within two minutes.

iii. Prioritize calls through safety and lethality assessment.

h. Staff/volunteers answering hotline calls are in a place that is quiet, free of distractions, and confidential; a private office if possible.

i. If a professional, or third party, calls on behalf of a survivor of family violence generalized information may be given about family violence and program services and requirements, but the staff person or volunteer must talk directly with the survivor regarding a personalized safety plan, danger/lethality assessment and shelter, or other services, and eligibility.

j. Hotline services include, but are not limited to:

i. crisis intervention;

ii. assessment of caller's safety and needs;

iii. emergency protocols (i.e. calling 911; is batterer present or within hearing);

iv. lethality/danger assessment;

v. FV education;

vi. information or referrals to available community resources;

vii. an appropriate form documenting each hotline call, the services offered and/or referrals made, and a plan of action, including information received in calls from professionals or third parties.

k. When using administrative and outreach phones:

i. anyone answering the telephone has a working knowledge of how to screen and assist hotline callers and the requirements of the crisis line, i.e. restrictions about being placed on hold; etc.

ii. after-hours, weekends and holidays, administrative and outreach phones are answered by devices that clearly direct callers to the hotline.

l. Prior to receiving calls, hotline staff complete family violence training approved by OWS and LCADV.

m. If either party is using a cell or mobile phone, the caller is made aware that confidentiality cannot be guaranteed. Family violence programs do not use mobile remote phones for crisis lines because of confidentiality. This does not preclude digital phones that are confidential.

n. If call forwarding is used to assure staffing of the service, it is the responsibility of the program staff to assure safety and confidentiality. Some issues to be addressed through written protocols when calls are forwarded to non-program locations:

i. the potential for family member to answer or pick-up (by way of an extension line) a hotline call;

ii. the potential of a personal answering machine to pick-up on an incoming call;

iii. the potential for calls to be routed to a cellular telephone that is answered by an advocate/volunteer in public place;

iv. the potential of staff's/volunteer's personal telephone lines to be traced or identified through "caller ID" or other features.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:538 (April 2001).

§1731. Transitional Living/Housing Program

A. Basic Considerations. These standards assure family violence programs offering transitional living/housing as part of their service delivery plan provide appropriate and quality services to survivors of family violence and their children in an empowering, non blaming way. Service provided through the transitional living/housing program is not an activity but a process that involves the survivor in goal setting, case management, needs assessment, resource identification and staff/survivor interaction.

B. Standards

1. Persons eligible for transitional living/housing are survivors of family violence who have some affiliation with the family violence program providing housing either in a residential or non-residential capacity, have left an abusive relationship and meet the following criteria.

a. The resident has a willingness to work or enroll in a continuing education or job training/readiness program.

b. The resident agrees to a criminal history check to ensure that there are no pending legal issues that pose a threat to the other residents.

2. Programs offering transitional living/housing develop and implement formal screening procedures that include the following:

a. application process;

b. screening process:

i. direct service staff approval;

ii. administrative approval;

c. verification process (Verification of status should be given to applicant in writing);

i. accepted/ready for housing;

ii. accepted/added to waiting list;

iii. conditional acceptance (to include explanation);

iv. denied.

3. Programs offering transitional living/housing establish rental agreements with eligible survivors entering the program to include the following:

a. written agreement for transitional living/housing;

b. deposits (when applicable);

c. move in date;

d. guidelines for housing and transitional living;

e. visual inspection and inventory (if applicable) of housing site.

4. The grievance procedure reflects OWS Standards and individual program policy. Grievance procedures are provided, in writing, to each resident.

5. Programs provide comprehensive supportive service/case management that is survivor directed and includes appropriate referrals to alternate resources, safe living arrangements, safety planning, child care, children's activities, individual and group/support counseling, assistance with housing and public assistance programs, legal advocacy, life skill development and staff/survivor interaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2122B and R.S. 46:2127B1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 27:542 (April 2001).

Vera Clay
Executive Director

0104#018

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Preceptorship Program (LAC 46:LXXXV.700 and 1101-1123)

The Louisiana Board of Veterinary Medicine hereby amends LAC 46:LXXXV.700 and 1101 through 1123 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

* * *

Preceptee—individuals who are unlicensed veterinarians or who are full time, fourth-year students of an accredited college of veterinary medicine and who are in a board-approved preceptorship program.

* * *

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 19:1328, amended LR 20:1381 (December, 1994), LR 24:940 (May 1998), LR 24:1932 (October 1998), LR 24:2257 (December 1998), LR 27:543 (April 2001).

Chapter 11. Preceptorship Program

§1103. Definitions

* * *

Limited Approval—a specialty facility, such as but not limited to, referral clinics, research facilities, and humane societies, may be approved by the board for a preceptee to perform no more than one-half the required preceptorship program.

Preceptor—a practitioner who is a licensed veterinarian, a member in good standing of his or her state association of the American Veterinary Medical Association and whose facility or practice has been approved by the board as a preceptorship host.

* * *

Preceptorship Program—a preceptorship program approved by the Louisiana Board of Veterinary Medicine.

1. The program shall consist of not less than eight calendar weeks in training in a program approved by the board.

2. For students graduating in calendar year 2001 and thereafter, the program must be performed after January of the fourth year of study.

* * *

Week in Training—a week in training shall consist of a minimum of 40 hours earned during a maximum of six calendar days. A calendar day shall not exceed nine hours in duration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993); LR 23:968 (August 1997); LR 24:1293 (July, 1998); LR 27:543 (April 2001).

§1105. Applicants

A. Every applicant for a license to practice veterinary medicine in the state of Louisiana must successfully complete, during the fourth year in an accredited school of veterinary medicine or after graduation, a preceptorship program at a board-approved facility. Only one board-approved preceptorship program will be allowed to be performed by a preceptee.

B. Every applicant for a preceptorship program must:

1. choose a facility that has been pre-approved by the board or preceptorship committee. If the subject facility has not been pre-approved, the applicant or facility may request an assessment questionnaire;

2. complete an agreement form provided by the board in which the proposed start date and end date of the preceptorship is indicated. Said agreement form must be agreed upon and signed by both the applicant and preceptor. The completed agreement form must be submitted to the board two weeks prior to the start of the preceptorship.

C. An applicant may divide the preceptorship program into two sessions at two different approved facilities. However, a session must consist of no less than three consecutive weeks in training.

D. A preceptee may perform no more than one-half of the preceptorship program at a specialty facility, such as, but not limited to, referral clinics, research facilities, and humane societies, which have received limited approval by the board.

E. The board shall have the discretionary right to waive compliance with the preceptorship program when the applicant has been licensed in another state or is eligible for a license without examination and provides written proof of employment as a licensed veterinarian in a clinical practice for a minimum of 90 consecutive days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:1686 (December 1997), LR 24:942 (May 1998); LR 27:543 (April 2001).

§1109. Preceptor's Responsibilities

A. The preceptor shall have the following responsibilities:

1. to assume the responsibility of an instructor during the training period with the primary objective of training the preceptee under direct supervision as set forth in rules 700 and 702.B;

2. - 5. ...

6. to provide a written job description on forms provided by the board with the practice assessment questionnaire. A copy of said job description will be distributed to the preceptee upon applying for preceptorship

at the facility, so that the preceptee will have an understanding of his/her responsibilities;

7. to assure that the preceptee's assignments, as much as possible, cover all aspects of the practice including office management, bookkeeping, and economics unless the facility holds a limited approval by the board as a specialty facility;

8. - 9. ...

10. to verify the preceptee's preceptorship log as requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 27:543 (April 2001).

§1111. Preceptee's Responsibilities

A. The failure of the preceptee to comply with all requirements of preceptorship assignment, can result in an additional preceptorship assignment and/or delay in licensure.

B. The preceptee's responsibilities are the following:

A.1. - 5. ...

6. to be responsible for the completion and timely submission to the board of all required preceptorship documents, such as the agreement form, attendance log, and evaluation sheets;

7. to comply with the requirement of direct supervision set forth in rules 700 and 702.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 27:544 (April 2001).

§1113. Practice Assessment Forms and Job Description Forms

A. ...

1. Practice Assessment Form. This form is used to determine if the practice facility meets the standards required by the American Veterinary Medical Association; and

2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 27:544 (April 2001).

§1115. Preceptorship Practice Requirements

A. A completed Practice Assessment Questionnaire and Job Description Form shall be submitted to the board, at least two weeks prior to the start of a preceptorship, to provide adequate time for board review and approval of the facility and for applicant-practitioner negotiations prior to time the preceptorship begins.

B. A firm commitment must not be made between the preceptee and the preceptor before the practice is approved by the board or preceptorship committee.

C. Approval of a preceptor shall include the following:

1. practices providing small animal services must adhere to high standards of surgical service including a separate prep room; availability of gas anesthesia; and use of gowns, caps and masks for orthopedic and other involved surgeries;

2. standards for large animal surgery must be consistent with good modern surgical techniques and provide for the performance of aseptic operative procedures;

3. - 6. ...

D. Specialty facilities, such as but not limited to, referral clinics, research facilities, and humane societies, may receive limited approval by the board to allow for no more than one-half of the required preceptorship program to be performed by a preceptee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 27:544 (April 2001).

§1117. Financial Arrangements and Other Agreements

A. ...

B. A written agreement between the preceptee and preceptor setting forth the responsibilities of the student and the practitioner should be agreed to by both parties at the time the commitment is made. The agreement should include the starting and termination dates, duty hours, after duty hours, free time, salary and fringe benefits. This type of written agreement reduces possible misunderstandings and enhances the learning experience.

C. All written agreements are carried out between the preceptee and the preceptor. A firm commitment must not be made between the preceptee and the preceptor before the practice is approved by the committee or the board. Premature commitments to practices that were not approved will not be tolerated. When this occurs in the future, that particular practitioner will be denied for the applicant involved.

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 16:232 (March 1990), amended LR 27:544 (April 2001).

§1119. Preceptorship Attendance Log

A. Each preceptee shall be required to keep a daily log on a form provided by the board of his/her attendance for the duration of the program. The attendance log form shall be reviewed and signed by the preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:968 (August 1997); LR 27:544 (April 2001).

§1121. Evaluations

A. At the conclusion of the preceptorship program, the preceptor and preceptee shall complete an evaluation form provided by the board. The completed evaluation forms must be submitted to the board within a 20-day time period to begin with the conclusion of the preceptorship program. No preceptorship program is complete until all required documentation is received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 23:968 (August 1997); LR 27:544 (April 2001).

§1123. Effective Date

A. These rules and regulations shall take effect upon publication in the March 20, 1990 issue of the *Louisiana Register* and as amended thereafter, and shall be complementary to all other rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:234 (March 1990), amended LR 27:545 (April 2001).

Kimberly B. Barbier
Administrative Director

0104#023

RULE

Department of Health and Hospitals Office of Public Health

Genetic Diseases—Neonatal Screening (LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health amends Subsections A, B, E and G of LAC 48:V.6303 as follows.

Title 48

PUBLIC HEALTHXGENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

A. Purpose and Scope. R.S. 40:1299.1.2.3, require physicians to test Louisiana newborns for phenylketonuria, congenital hypothyroidism, sickle cell disease and biotinidase deficiency. The Office of Public Health (OPH) maintains a laboratory for performing screening tests for hyperphenylalanemia manifest in phenylketonuria (PKU), for thyroxine (T₄) and thyroid stimulating hormone (TSH) used in congenital hypothyroidism detection, hemoglobin identification for sickle cell disease and enzyme assay for detection of biotinidase deficiency. Definitive diagnostic tests are provided if the screening test is positive. The newborn screening battery may also be available through other approved laboratories (see Subsection G). Act 0997 of the 1993 Legislative Regular Session of the state of Louisiana, removed galactosemia from the newborn screening battery and replaced it with a program for informing physicians and hospitals of the current medical standards for diagnosing and treating children who exhibit clinical symptoms which suggest the presence of galactosemia.

B. Methodology

1. Filter Paper Specimen Form, (Lab-10) used in blood specimen collection for neonatal screening, can be obtained at parish health units. There are two different types of Lab-10 forms which are color coded.

a. ...

b. For private and non-Medicaid patients, red border Lab-10 forms are used. These red border Lab-10 forms are \$18 each.

2. ...

3. For non-Medicaid patients with a financial status of greater than 100 percent of the Poverty Guidelines as established by the Department of Health and Hospitals (DHH) and who attend a parish health unit for just the newborn screening service, the parent or guardian will be charged \$18 upon registering at the parish health unit.

C. - C.2. ...

D. Notification of Screening Results

1. Providers are notified immediately of positive screens by telephone. Otherwise, submitters should receive the result slip from the State Central Lab within two to three weeks. Submitters may call the Central Lab for results 10 days after submission. The telephone number for the Central Lab is (504) 568-5371. Results are also available to submitters 24 hours a day, 365 days a year through the Voice Response System with FAX (VRS) which is accessed by using a touch tone telephone. Information on using VRS can be obtained by calling the Genetic Diseases Program Office at 1-800-871-9548.

E. Unsatisfactory Specimens. The accuracy of a test depends on proper collection of the blood spot. Specimens of unsatisfactory quality for testing will be indicated on the result slip. Training on collecting adequate specimens can be arranged by calling the Genetics Nurse at telephone number (504) 568-5070.

F. - F.1.f. ...

G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1.

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism, biotinidase deficiency, and the following hemoglobinopathies: sickle cell disease, SC disease, thalassemias, E disease and C disease.

2. ...

3. A laboratory must perform the complete battery at one site. Using two laboratories for completion of the total battery is unacceptable as this increases the risk of error and delay in reporting.

4. When using dried blood spots, only specimen forms using filter paper approved by the Centers for Disease Control (CDC) are acceptable.

5. Only the following testing methodologies are acceptable without prior approval.

Disease	Testing Methodology
PKU	Fluorometric Tandem Mass Spectroscopy Guthrie Bacterial Inhibition Assay Phenylalanine level cut-off: >3 mg, dL, call Genetics Office immediately for obtaining phenylalanine/tyrosine
Congenital Hypothyroidism	Radioimmunoassay (RIA) or Enzyme Immunoassay (EIA) methods for T ₄ and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Biotinidase Deficiency	Qualitative or Quantitative Enzymatic Colorimetric or Fluorometric

Hemoglobinopathies (Sickle cell)	Cellulose acetate/citrate agar Capillary isoelectric focusing (CIEF) Gel isoelectric focusing (IEF) High Pressure Liquid Chromatography (HPLC) Sickle DexXNOT Acceptable Controls must include: F, A, S, C, E Result Reporting: by phenotype Positive/negative is NOT acceptable
New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approvals will be based on documentation of FDA approval and an inhouse validation study of said methodology.	

6. The laboratory must comply with the regulations for proficiency testing as mandated in the Clinical Laboratory Improvement Amendments of 1988 (CLIA 88 Section §493.1707). When using dried blood spots, the laboratory must participate in the proficiency testing program of the Centers for Disease Control. The laboratory must report all proficiency testing results to the Genetic Diseases Program Office within one month of receiving the report from the proficiency testing provider.

7. The laboratory must be able to provide test result data to physicians and nurses on their specific patients by telephone and by FAX or by use of the internet, 24 hours a day 365 days a year.

8. Mandatory Reporting of Positive Test Results Indicating Disease

a. To ensure appropriate and timely follow-up, positive results must be reported, along with patient demographic information as specified below to the Genetic Diseases Program Office either by FAX at (504) 568-7722 or by telephone at (504) 568-5070 and followed up by the mailing of the information to the following address: Genetic Diseases Program, P.O. Box 60630, Room 308, New Orleans, LA 70160-0630.

b. Specific time deadlines for reporting positive results indicating probable disease after data reduction and interpretation to the Genetics Office:

- i. PKU: report a phenylalanine level of >3 mg/dL on the initial or repeat blood specimen within 2 hours;
- ii. congenital hypothyroidism: report confirmatory test results within 24 hours;
- iii. biotinidase deficiency: report confirmatory results within 24 hours;
- iv. sickle cell disease: report results of FS, FSC, FSA from initial specimens within 24 hours.

c. The specified information to be reported:

- i. child=s name;
- ii. parent or guardian=s name;
- iii. child=s street address;
- iv. child=s date of birth;
- v. child=s sex;
- vi. child=s race;
- vii. parent=s telephone number;
- viii. collection date;
- ix. test results;
- x. primary care physician;
- xi. age at collection (< or > 48 hours old);
- xii. birth weight;

- xiii. full term or premature or gestational age; and
- xiv. transfusion

Yes___ Date of last transfusion No___
(if available)

9. Provision of Follow-up Services. To ensure that reporting time deadlines are met for every positive result indicating probable disease under b above, a follow-up system must be in operation. The protocol for a follow-up system may rely on the submitting hospital for the follow-up action which must include the following.

a. Locate the infant and ensure diagnostic and medical care:

- i. telephone call to medical provider within 24 hours of positive lab result;
- ii. if there is no medical provider available, a telephone call should be made to parent/guardian;
- iii. if the parent/guardian does not have a telephone, then notify them by certified and regular mail;
- iv. if there is no response to mail within 5 days, a home visit should be made;

v. report to the Genetic Diseases Program Office all patients with suspect results who are unable to be located.

b. Results of repeat testing should be obtained.

- i. If results are normal, the case can be closed.
- ii. If results are abnormal, the case must be reported to the Genetic Diseases Program Office.

10. Reporting requirements of private laboratories to the Genetic Diseases Program Office for public health surveillance and quality assurance purposes.

a. The laboratory must submit quarterly statistical reports to the Genetic Diseases Program Office that indicate the number of specimens screened by method, the number of specimens unsatisfactory for testing, the number normal and positive, and for screening of hemoglobinopathies, the number by phenotype (see Genetics Office address in Subsection G.7).

b. Effective July 1, 2001, the laboratory must also report to the Genetic Diseases Program Office via electronic transmission newborn screening results on all Louisiana newborns screened monthly or quarterly. The method of transmitting as well as the reporting must be by diskette or another mutually agreed upon form of electronic transmission. The file format and data layout will be determined by the Genetic Diseases Program. Essential patient data is the following:

- i. child's name;
- ii. parent or guardian's name;
- iii. child's street address;
- iv. child's date of birth;
- v. child's sex
- vi. child's race
- vii. collection date; and
- viii. test results.

11. The laboratory must register by letter with the Genetic Diseases Program of the Office of Public Health each year. This letter must contain the following and be received in the Genetic Diseases Program Office by February 1 each year:

a. assurance of compliance with the requirements described in Subsection G.1.-9;

- b. the type of testing methodologies used;
- c. the number of specimens projected to be tested or actually tested annually;
- d. the type of specimen(s) used, i.e., filter paper or whole blood;
- e. reporting format for positive/abnormal test results.

12. Guidelines and recommendations on quality assurance of newborn screening from nationally recognized committees and authors should be considered in the establishment and operation of a newborn screening system.²

Reference

¹American Academy of Pediatrics, Committee on Genetics: New Issues in Newborn Screening for Phenylketonuria and Congenital Hypothyroidism. *Pediatrics* 1982; 60:104-6.

²References pertaining to Subsection G:

- a. Committee on Genetics, American Academy of Pediatrics Issues in Newborn Screening. *Pediatrics* 1992;89:345.
- b. CORN Newborn Screening Committee, Council on Regional Networks for Genetic Services. U.S. Newborn Screening System Guidelines: Statement of the Council of Regional Networks for Genetics Services. Screening, 1 (1992 pp. 135-147).
- c. Andrews L *Legal Liability and Quality Assurance in Newborn Screening*. Chicago, American Bar Foundation (1985), pp. 82-83.
- d. National Committee for Clinical Laboratory Standards (NCLS) Standards for Blood Collection on Filter Paper for Neonatal Screening. Document LA4-A2 July 1992.
- e. Committee on Assessing Genetic Risks, Division of Health Sciences Policy, Institute of Medicine *Assessing Genetic Risks* National Academy Press, Washington, D.C. (1994).
- f. Clinical Laboratory Improvement Amendments, 1988. Health Care Financing Authority (HCFA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:545 (April 2001).

David W. Hood
Secretary

0104#032

RULE

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

CommunityCARE Program—Changing Primary Care Providers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4701 of the Balanced Budget Act of 1997 governing when a CommunityCARE recipient may change primary care providers. CommunityCARE recipients may request to change primary care providers for cause at any time. They may change primary care providers without

cause at any time during the first 90 days of enrollment with a primary care provider and at least every 12 months thereafter.

David W. Hood
Secretary

0104#043

RULE

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

Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT)—Hearing Aids

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing 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 amended Rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 20, 1996 Rule to establish the following prior authorization criteria for hearing aids.

Prior Authorization Criteria

Hearing aids and related services are only covered for EPSDT recipients up to the age of 21. Approval is granted only when there is a significant hearing loss as documented by audiometric or electrophysiologic data from a licensed audiologist and medical clearance and prescription from an ear specialist (otologist).

The audiologist must furnish a report, including an audiogram (if applicable) and all test results, indicating the degree and type of hearing loss. A hearing loss greater than 20 decibels with an average hearing level in the range 250-2000 Hz is considered significant. Additional required medical and social information shall include:

1. the recipient's age;
2. expected benefit of the hearing aid;
3. previous and current use of a hearing aid;
4. additional disabilities expected to influence the use of a hearing aid; and
5. referrals made on the recipient's behalf to early intervention programs, special education programs or other habilitative services.

Hearing aid repairs, batteries, and ear molds shall not require prior authorization. Limitations on the purchase of ear molds are established as follows:

1. one ear mold will be allowed every 90 days for EPSDT recipients from birth through age four; and
2. one ear mold per year will be allowed for EPSDT recipients from age five up to 21.

David W. Hood
Secretary

0104#044

RULE

Department of Insurance Office of the Commissioner

Regulation 76—Privacy of Consumer Financial Information (LAC 37:XIII.Chapter 99)

As authorized by Title 22:1, et seq. and in accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, the Commissioner of Insurance hereby adopts Regulation 76 of the Louisiana Department of Insurance, which will govern the privacy of consumer financial information in this state.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 99. Regulation 76XPrivacy of Consumer

Subchapter A. General Provisions

§9901. Authority

A. This regulation is adopted pursuant to R.S. 22:2 which charges the commissioner of insurance with the duty to enforce and administer all of the provisions of the Insurance Code, the purpose of which is to regulate the business of insurance in all of its phases in the public interest. Sections 501(b) and 505(a)(6) of the Gramm-Leach-Bliley Act specifically designate the Department of Insurance as the agency to establish the appropriate standards covering any person engaged in providing insurance under state law. R.S. 22:3 grants the commissioner of insurance authority to promulgate rules and regulations as are necessary for the implementation of the provisions of Title 22. R.S. 22:3052 specifically refers to the protection of the interests of insurance policyholders in this state with respect to financial institution insurance sales, and R.S. 22:3054 grants the commissioner of insurance authority to promulgate rules and regulations as may be necessary to effectuate the provisions of Chapter 6 Financial Institution Sales in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054, and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001).

§9903. Purpose

A. The purpose of this regulation is to govern the treatment of nonpublic personal financial information about individuals by all licensees of the state insurance department. This regulation:

1. requires a licensee to provide notice to individuals about its privacy policies and practices;
2. describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and
3. provides methods for individuals to prevent a licensee from disclosing that information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054, and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001).

§9905. Scope and Applicability

A. This regulation applies to:

1. nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This regulation does not apply to information about companies or about individuals who obtain products or services for business, commercial or agricultural purposes; and

B. Compliance. A licensee domiciled in this state that is in compliance with this regulation in a state that has not enacted laws or regulations that meet the requirements of Title V of the Gramm-Leach-Bliley Act (PL 102-106) may nonetheless be deemed to be in compliance with Title V of the Gramm-Leach-Bliley Act in such other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001).

§9907. Rule of Construction

A. The examples in this regulation and the sample clauses in Appendix A of this regulation are not exclusive. Compliance with an example or use of a sample clause, to the extent applicable, constitutes compliance with this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001).

§9909. Definitions

A. As used in this regulation, unless the context requires otherwise:

Affiliate—any company that controls, is controlled by or is under common control with another company.

Clear and Conspicuous—that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice. Examples:

- a. reasonably understandable. A licensee makes its notice reasonably understandable if it:
 - i. presents the information in the notice in clear, concise sentences, paragraphs, and sections;
 - ii. uses short explanatory sentences or bullet lists whenever possible;
 - iii. uses definite, concrete, everyday words and active voice whenever possible;
 - iv. avoids multiple negatives;
 - v. avoids legal and highly technical business terminology whenever possible; and
 - vi. avoids explanations that are imprecise and readily subject to different interpretations;
- b. designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:
 - i. uses a plain-language heading to call attention to the notice;
 - ii. uses a typeface and type size that are easy to read;
 - iii. provides wide margins and ample line spacing;
 - iv. uses boldface or italics for key words; and
 - v. in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars;

c. notices on web sites. If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the web site (such as text, graphics, hyperlinks or sound) do not distract attention from the notice, and the licensee either:

i. places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

ii. places a link on a screen that consumers frequently access, such as a page on which transactions are conducted that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

Collect—to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

Commissioner—the commissioner of insurance.

Company—any natural person, partnership, corporation, association, business, trust, unincorporated organization, or other form of business enterprise, plural or singular, as the case demands.

Consumer—an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, or that individual's legal representative. Examples:

a. an individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship;

b. an applicant for insurance prior to the inception of insurance coverage is a licensee's consumer;

c. an individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution;

d. an individual is a licensee's consumer if:

i.(a). the individual is a beneficiary of a life insurance policy underwritten by the licensee;

(b). the individual is a claimant under an insurance policy issued by the licensee;

(c). the individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

(d). the individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and

ii. the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under §§9929, 9931 and 9933 of this regulation.

e. Provided that the licensee provides the initial, annual and revised notices under §§9911, 9913 and 9919 of this regulation to the plan sponsor, group or blanket insurance policyholder or group annuity contract holder, and

further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under §§9929, 9931 and 9933 of this regulation, an individual is not the consumer of the licensee solely because he or she is:

i. a participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;

ii. covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or

f.i. in no event shall the individuals, solely by virtue of the status described in Subparagraph e.i through iii above, be deemed to be customers for purposes of this regulation;

g. An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee;

h. an individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

Consumer Reporting Agency—has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

Control—

a. ownership, control or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

b. control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

c. the power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

Customer—a consumer who has a customer relationship with a licensee.

Customer Relationship—a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes. Examples:

a. a consumer has a continuing relationship with a licensee if:

i. the consumer is a current policyholder of an insurance product issued by or through the licensee; or

ii. the consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee;

b. a consumer does not have a continuing relationship with a licensee if:

i. the consumer applies for insurance but does not purchase the insurance;

ii. the licensee sells the consumer airline travel insurance in an isolated transaction;

iii. the individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

iv. the consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

v. the consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

vi. the customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;

vii. the individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

viii. for the purposes of this regulation, the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

Financial Institution—for the purposes of this regulation means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). Financial institution does not include:

a. any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

b. the Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

iii. institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

Financial Product or Service—any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

a. Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

Insurance Product or Service—any product or service that is offered by a licensee pursuant to the insurance laws of this state.

a. insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

Licensee—all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered with the commissioner of insurance.

a. Producers include persons required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including, but not limited to agents, brokers, solicitors and surplus lines brokers.

b. A licensee is not subject to the notice and opt out requirements for:

i. nonpublic personal financial information set forth in Subchapters A, B, C; and D of this regulation if the licensee is an employee, agent or other representative of another licensee ("the principal") and:

(a). the principal otherwise complies with, and provides the notices required by, the provisions of this regulation; and

(b). the licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this regulation.

c.i. Subject to Clause i, *licensee* shall also include an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to R.S. 22:1248, et seq. of this state's laws.

ii. A surplus lines broker or unauthorized insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in Subchapters A, B, C and D of this regulation provided:

(a). the broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under §9929 of this regulation, except as permitted by §9931 or §9933 of this regulation; and

(b). the broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

PRIVACY NOTICE

NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

Nonaffiliated Third Party—any person except:

a. a licensee's affiliate; or

b. a person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

c. nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

Nonpublic Personal Information—nonpublic personal financial information.

Nonpublic Personal Financial Information—

a. personally identifiable financial information; and

b. any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

c. Nonpublic personal financial information does not include:

- i. health information;
- ii. publicly available information, except as included on a list described in Subsection (b) of this section; or
- iii. any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

d. Examples of Lists

i. Nonpublic personal financial information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

ii. Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

Opt Out—

a. means any direction by the consumer that the licensee not disclose nonpublic personal financial information about the consumer to a non affiliated third party, other than as permitted by Sections 9929, 9931, and 9933.

Personally Identifiable Financial Information—any information:

a. a consumer provides to a licensee to obtain an insurance product or service from the licensee;

b. about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

c. the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

d. Examples

i. Information included. Personally identifiable financial information includes:

(a). information a consumer provides to a licensee on an application to obtain an insurance product or service;

(b). account balance information and payment history;

(c). the fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

(d). any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

(e). any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

(f). any information the licensee collects through an Internet cookie (an information-collecting device from a web server); and

(g) information from a consumer report.

ii. Information not included. Personally identifiable financial information does not include:

(a). health information;

(b). a list of names and addresses of customers of an entity that is not a financial institution; and

(c). information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

Publicly Available Information—any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

a. federal, state or local government records;

b. widely distributed media; or

c. disclosures to the general public that are required to be made by federal, state or local law.

d. Reasonable Basis. A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

i. that the information is of the type that is available to the general public; and

ii. whether an individual can direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so.

e. Examples

i. Government Records. Publicly available information in government records includes information in government real estate records and security interest filings.

ii. Widely distributed media. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

f. Reasonable Basis

i. A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

ii. A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3053, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001).

Subchapter B. Privacy and Opt Out Notices for Financial Information

§9911. Initial Privacy Notice to Consumers Required

A. Initial Notice Requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

1. customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in Subsection E of this section; and

2. consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by §§9931 and 9933.

B. When initial notice to a consumer is not required. A licensee is not required to provide an initial notice to a consumer under Subsection A.2 of this section if:

1. The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by §§9931 and 9933, and the licensee does not have a customer relationship with the consumer; or

2. A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

C. When the Licensee Establishes a Customer Relationship

1. General Rule. A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

2. Examples of establishing customer relationship. A licensee establishes a customer relationship when the consumer:

a. becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or

b. agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

D. Existing Customers. When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of Subsection A of this section as follows:

1. the licensee may provide a revised policy notice, under §9919, that covers the customer's new insurance product or service; or

2. if the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under Subsection A of this section.

E. Exceptions to allow subsequent delivery of notice.

1. A licensee may provide the initial notice required by Subsection A.1 of this section within a reasonable time after the licensee establishes a customer relationship if:

a. establishing the customer relationship is not at the customer's election; or

b. providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

2. Examples of Exceptions

a. Not at Customer's Election. Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism

and the customer does not have a choice about the licensee's acquisition or assignment.

b. Substantial Delay of Customer's Transaction. Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

c. No Substantial Delay of Customer's Transaction. Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a web site.

F. Delivery. When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to §9921. If the licensee uses a short-form initial notice for non-customers according to §9915D, the licensee may deliver its privacy notice according to §9915D(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:551 (April 2001).

§9913. Annual Privacy Notice to Customers Required

A.1. General Rule. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

2. Example. A licensee provides a notice annually if it defines the twelve-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year two.

B.1. Termination of Customer Relationship. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

2. Examples

a. A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

b. A licensee no longer has a continuing relationship with an individual if the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.

c. For the purposes of this regulation, a licensee no longer has a continuing relationship with an individual if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

d. A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

D. Delivery. When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to §9921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:552 (April 2001).

§9915. Information to be Included in Privacy Notices

A. General Rule. The initial, annual and revised privacy notices that a licensee provides under §§9911, 9913 and 9919 shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

1. the categories of nonpublic personal financial information that the licensee collects;

2. the categories of nonpublic personal financial information that the licensee discloses;

3. the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under §§9931 and 9933.

4. the categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under §§9931 and 9933;

5. if a licensee discloses nonpublic personal financial information to a nonaffiliated third party under §9929 (and no other exception in §§9931 and 9933 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;

6. an explanation of the consumer's right under §9923 to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

7. any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

8. the licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

9. any disclosure that the licensee makes under Subsection B of this section.

B. Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under §§9931 and 9933, the licensee is not required to list those exceptions in the initial or annual privacy notices required by §§9911 and 9913. When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

C. Examples

1. Categories of nonpublic personal financial information that the licensee collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

a. information from the consumer;

b. information about the consumer's transactions with the licensee or its affiliates;

c. information about the consumer's transactions with nonaffiliated third parties; and

d. information from a consumer reporting agency.

2. Categories of Nonpublic Personal Financial Information a Licensee Discloses

a. A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in Subsection C.1 of this section, as applicable, and provides a few examples to illustrate the types of information in each category. These might include:

i. information from the consumer, including application information, such as assets and income and identifying information, such as name, address and social security number;

ii. transaction information, such as information about balances, payment history and parties to the transaction; and

iii. information from consumer reports, such as a consumer's creditworthiness and credit history.

b. A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

c. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

3. Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.

a. A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

b. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term financial products or services if it includes

appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

c. A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

4. Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception in §9929 to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of Subsection A.5 of this section if it:

a. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of Subsection A2. of this section, as applicable; and

b. States whether the third party is:

i. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or

ii. A financial institution with whom the licensee has a joint marketing agreement.

5. Simplified notices. If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under §§9931 and 9933, the licensee may simply state that fact, in addition to the information it shall provide under Subsections A.1, A.8, A.9, and Subsection B of this section.

6. Confidentiality and security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

a. Describes in general terms who is authorized to have access to the information; and

b. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses.

D. Short-Form Initial Notice With Opt Out Notice for Non-Customers

1. A licensee may satisfy the initial notice requirements in §§9911A(2) and 9917C for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt out notice as required in §9917.

2. A short-form initial notice shall:

a. be clear and conspicuous;

b. state that the licensee's privacy notice is available upon request; and

c. explain a reasonable means by which the consumer may obtain that notice.

3. The licensee shall deliver its short-form initial notice according to §9921. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the

licensee's privacy notice, the licensee shall deliver its privacy notice according to §9921.

4. Examples of obtaining privacy notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee:

a. provides a toll-free telephone number that the consumer may call to request the notice; or

b. for a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

E. Future disclosures. The licensee's notice may include:

1. Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and

2. Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

F. Sample clauses. Sample clauses illustrating some of the notice content required by this section are included in Appendix A of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:553 (April 2001).

§9917. Form of Opt Out Notice to Consumers and Opt Out Methods

A.1. Form of Opt Out Notice. If a licensee is required to provide an opt out notice under §9923, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice shall state:

a. that the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

b. that the consumer has the right to opt out of that disclosure; and

c. a reasonable means by which the consumer may exercise the opt out right.

2. Examples.

a. Adequate Opt Out Notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

i. identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in §9915A(2) and (3), and states that the consumer can opt out of the disclosure of that information; and

ii. identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

b. Reasonable Opt Out Means. A licensee provides a reasonable means to exercise an opt out right if it:

i. designates check-off boxes in a prominent position on the relevant forms with the opt out notice;

ii. includes a reply form together with the opt out notice;

iii. provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's web site, if the consumer agrees to the electronic delivery of information; or

iv. provides a toll-free telephone number that consumers may call to opt out.

c. Unreasonable opt out means. A licensee does not provide a reasonable means of opting out if:

i. the only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or

ii. the only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

d. Specific opt out means. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

B. Same Form as Initial Notice Permitted. A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with §9911.

C. Initial notice required when opt out notice delivered subsequent to initial notice. If a licensee provides the opt out notice later than required for the initial notice in accordance with §9911, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

D. Joint Relationships

1. If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer (as explained in Paragraph (5) of this subsection).

2. Any of the joint consumers may exercise the right to opt out. The licensee may either:

a. treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

b. permit each joint consumer to opt out separately.

3. If a licensee permits each joint consumer to opt out separately, the licensee shall permit one of the joint consumers to opt out on behalf of all of the joint consumers.

4. A licensee may not require all joint consumers to opt out before it implements any opt out direction.

5. Example. If John and Mary are both named policyholders on a homeowner's insurance policy issued by a licensee and the licensee sends policy statements to John's address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow:

a. send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary;

b. treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt out direction;

c. permit John and Mary to make different opt out directions. If the licensee does so:

i. it shall permit John and Mary to opt out for each other;

ii. if both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call); and

iii. if John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly.

E. Time to Comply with Opt Out. A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it.

F. Continuing Right to Opt Out. A consumer may exercise the right to opt out at any time.

G. Duration of consumer's opt out direction.

1. A consumer's direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

2. When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

H. Delivery. When a licensee is required to deliver an opt out notice by this section, the licensee shall deliver it according to §9921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:554 (April 2001).

§9919. Revised Privacy Notices

A. General Rule. Except as otherwise authorized in this regulation, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under §9911, unless:

1. the licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;

2. the licensee has provided to the consumer a new opt out notice;

3. the licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

4. the consumer does not opt out.

B. Examples

1. Except as otherwise permitted by §§9929, 9931, and 9933, a licensee shall provide a revised notice before it:

a. discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

b. discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

c. discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.

2. A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

C. Delivery. When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to §9921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:555 (April 2001).

§9921. Delivery

A. How to Provide Notices. A licensee shall provide any notices that this regulation requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

B.1. Examples of reasonable expectation of actual notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee:

- a. hand-delivers a printed copy of the notice to the consumer;
- b. mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;
- c. for a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service;
- d. for an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

2. Examples of unreasonable expectation of actual notice. A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

- a. only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or
- b. sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

C. Annual Notices Only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

1. the customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or
2. the customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

D. Oral Description of Notice Insufficient. A licensee may not provide any notice required by this regulation solely by orally explaining the notice, either in person or over the telephone.

E. Retention or accessibility of notices for customers.

1. For customers only, a licensee shall provide the initial notice required by §9911A(1), the annual notice required by §9913A, and the revised notice required by

§9919 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

2. Examples of Retention or Accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:

- a. hand-delivers a printed copy of the notice to the customer;
- b. mails a printed copy of the notice to the last known address of the customer; or
- c. Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site.

F. Joint Notice with Other Financial Institutions. A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

G. Joint relationships. If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of §§9911, 9913 and 9919, respectively, by providing one notice to those consumers jointly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:556 (April 2001).

Subchapter C. Limits on Disclosures of Financial Information

§9923. Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties

A.1. Conditions for Disclosure. Except as otherwise authorized in this regulation, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

- a. the licensee has provided to the consumer an initial notice as required under §9911;
- b. the licensee has provided to the consumer an opt out notice as required in §9917;
- c. the licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
- d. the consumer does not opt out.

2. Examples of Reasonable Opportunity to Opt Out. A licensee provides a consumer with a reasonable opportunity to opt out if:

- a. by mail. The licensee mails the notices required in Paragraph 1 of this subsection to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within 30 days from the date the licensee mailed the notices;
- b. by electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in Paragraph 1 of this subsection electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account;

c. isolated transaction with consumer. For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in Paragraph 1 of this subsection at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

B. Application of opt out to all consumers and all nonpublic personal financial information.

1. A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

2. Unless a licensee complies with this section, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

C. Partial opt out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:556 (April 2001).

§9925. Limits on Re-Disclosure and Reuse of Nonpublic Personal Financial Information

A.1. Information the licensee receives under an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in §§9931 or 9933 of this regulation, the licensee's disclosure and use of that information is limited as follows:

a. the licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

b. the licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

c. the licensee may disclose and use the information pursuant to an exception in §§9931 or 9933 of this regulation, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

2. Example. If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

B.1. Information a licensee receives outside of an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in §§9931 or 9933 of this regulation, the licensee may disclose the information only:

a. to the affiliates of the financial institution from which the licensee received the information;

b. to its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

c. to any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

2. Example. If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in §§9931 or 9933:

a. the licensee may use that list for its own purposes; and

b. the licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in §§9931 or 9933, such as to the licensee's attorneys or accountants.

C. Information a licensee discloses under an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in §§9931 or 9933 of this regulation, the third party may disclose and use that information only as follows:

1. the third party may disclose the information to the licensee's affiliates;

2. the third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

3. the third party may disclose and use the information pursuant to an exception in §§9931 or 9933 in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

D. Information a licensee discloses outside of an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in §§9931 or 9933 of this regulation, the third party may disclose the information only:

1. to the licensee's affiliates;

2. to the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

3. to any other person, if the disclosure would be lawful if the licensee made it directly to that person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:557 (April 2001).

§9927. Limits on Sharing Account Number Information for Marketing Purposes

A. General prohibition on disclosure of account numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

B. Exceptions. Subsection A of this section does not apply if a licensee discloses a policy number or similar form of access number or access code:

1. to the licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

2. to a licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or

3. to a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

C. Examples

1. Policy Number. A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

2. Policy or Transaction Account. For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:557 (April 2001).

Subchapter D. Exceptions to Limits on Disclosures of Financial Information

§9929. Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing

A. General Rule

1. The opt out requirements in §§9917 and 9923 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

a. provides the initial notice in accordance with §9911; and

b. enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in §§9931 or 9933 in the ordinary course of business to carry out those purposes.

2. Example. If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of Paragraph 1.b of this subsection if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in §9931 or §9933 in the ordinary course of business to carry out that joint marketing.

B. Service may include joint marketing. The services a nonaffiliated third party performs for a licensee under Subsection A of this section may include marketing of the licensee's own products or services or marketing of financial

products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

C. Definition of Joint Agreement. For purposes of this section, *joint agreement* means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:558 (April 2001).

§9931. Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions

A. Exceptions for Processing Transactions at Consumer's Request. The requirements for initial notice in §9911A.2, the opt out in §§9917 and 9923, and service providers and joint marketing in §9929 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

1. servicing or processing an insurance product or service that a consumer requests or authorizes;

2. maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;

3. a proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or

4. reinsurance or stop loss or excess loss insurance.

B. Necessary to Effect, Administer or Enforce a Transaction. That the disclosure is:

1. required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

2. required, or is a usual, appropriate or acceptable method:

a. to carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service;

b. to administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

c. to provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

d. to accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

e. to underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance

benefits (including utilization review activities), participating in research projects or as otherwise required or specifically permitted by federal or state law; or

f. In connection with:

i. authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

ii. the transfer of receivables, accounts or interests therein; or

iii. the audit of debit, credit or other payment information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:558 (April 2001).

§9933. Other Exceptions to Notice and Opt Out

Requirements for Disclosure of Nonpublic Personal Financial Information

A. Exceptions to Opt Out Requirements. The requirements for initial notice to consumers in §9911A.2, the opt out in §§9917 and 9923, and service providers and joint marketing in §9929 do not apply when a licensee discloses nonpublic personal financial information:

1. with the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

2.a. to protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;

b. to protect against or prevent actual or potential fraud or unauthorized transactions;

c. for required institutional risk control or for resolving consumer disputes or inquiries;

d. to persons holding a legal or beneficial interest relating to the consumer; or

e. to persons acting in a fiduciary or representative capacity on behalf of the consumer;

3. to provide information to an insurance rate advisory organizations for the purpose of gathering statistical rate making information, guaranty funds or agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors;

4. to the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Record keeping), the commissioner of insurance, and the Federal Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety;

5.a. to a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

b. from a consumer report reported by a consumer reporting agency;

6. actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit;

7.a. To comply with federal, state or local laws, rules and other applicable legal requirements;

b. To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities;

c. To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law; or

8. for purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan.

9. for Purposes related to:

a. an order of rehabilitation or liquidation pursuant to R.S. 22:731 et seq.;

b. any other provision of law which authorizes the Commissioner of Insurance to take over, rehabilitate, liquidate, or wind up the affairs of a licensee.

B. Example of Revocation of Consent. A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under §9917F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 22:731, et seq. and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:559 (April 2001).

Subchapter E. Additional Provisions

§9945. Protection of Existing Requirements

A. Nothing in this regulation shall be construed to modify, limit or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) or of Louisiana Revised Statutes Sections 22:1474, 23:1200.3 or 22:3063, and no inference shall be drawn on the basis of the provisions of this regulation regarding whether information is transaction or experience information under Section 603 of the federal Fair Credit Reporting Act..

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1474, 22:3052, 22:3054, 22:3063, 23:1200.3, Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999, 15 U.S.C. 1681, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:559 (April 2001).

§9947. Nondiscrimination

A. A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of his or her nonpublic personal financial information pursuant to the provisions of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1214, 22:2020; 22:3052; 22:3054, 22:3063.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:559 (April 2001).

§9949. Violations and Penalties

A. Any failure to comply with this regulation shall be considered a violation of R.S. 22:1214, et seq.

B. Violations of this regulation shall subject the violators to penalties as provided in R.S. 22:1217, 22:1217.1, and any other applicable provisions of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1214, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:559 (April 2001).

§9951. Severability

A. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 24:175.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:560 (April 2001).

§9953. Effective Date

A. Effective Date. This regulation is effective November 13, 2000. In order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of this regulation, the commissioner has extended the time for compliance with this regulation until July 1, 2001.

B.1. Notice Requirement for Consumers who are the Licensee's Customers on the Compliance Date. By July 1, 2001, a licensee shall provide an initial notice, as required by Section 5, to consumers who are the licensee's customers on July 1, 2001.

2. Example. A licensee provides an initial notice to consumers who are its customers on July 1, 2001, if, by that date, the licensee has established a system for providing an initial notice to all new customers and has mailed the initial notice to all the licensee's existing customers.

C. Two-year grandfathering of service agreements. Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of §9929A.1.b of this regulation, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as the licensee entered into the agreement on or before July 1, 2000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:560 (April 2001).

Appendix AX Sample Clauses

Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A-1—Categories of information a licensee collects (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of §9915A.1 to describe the categories of nonpublic personal information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

A-2—Categories of information a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use one of these clauses, as applicable, to meet the requirement of §9915A.2 to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions in §§9929, 9931 and 9933.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal information about you:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as "your name, address, social security number, assets, income, and beneficiaries"];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as "your policy coverage, premiums, and payment history"]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as "your creditworthiness and credit history"].

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect, as described [describe location in the notice, such as "above" or "below"].

A-3—Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirements of §§9915A.2, 3, and 4 to describe the categories of nonpublic personal information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions in §§9931 and 9933.

Sample Clause A-3:

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

A-4—Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of §9915A.3 to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may be used if the licensee discloses nonpublic personal information other than as permitted by the exceptions in §§9929, 9931 and 9933, as well as when permitted by the exceptions in §§9931 and 9933.

Sample Clause A-4:

We may disclose nonpublic personal information about you to the following types of third parties:

- Financial service providers, such as [provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents”];
- Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and
- Others, such as [provide illustrative examples, such as “non-profit organizations”].

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

A-5—Service provider/joint marketing exception

A licensee may use one of these clauses, as applicable, to meet the requirements of §9915A(5) related to the exception for service providers and joint marketers in §9929. If a licensee discloses nonpublic personal information under this exception, the licensee shall describe the categories of nonpublic personal information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premium, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described [describe location in the notice, such as “above” or “below”] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A-6—Explanation of opt out right

(institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of §9915A.6 to provide an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in §§9929, 9931 and 9933.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of

opting out, such as “call the following toll-free number: (insert number)”].

A-7—Confidentiality and security (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of §9915A.8 to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A-7:

We restrict access to nonpublic personal information about you to [provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”]. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Inquiries concerning this regulation should be directed to Brenda S. Nation, Executive Counsel, P.O. Box 94214, Baton Rouge, LA 70804-9214; telephone: (225) 342-4674; fax (225) 342-1632.

J. Robert Wooley
Acting Commissioner

0104#017

RULE

Department of Insurance Office of the Commissioner

Rule 10—Continuing Education (LAC 37:XI.703-731)

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 amended and re-enacted its existing Rule 10.

The amendments are needed to make certain changes, clarify the current language and to implement the Midwest Zone Continuing Education Reciprocity Agreement which will further the National Association of Insurance Commissioners' (NAIC) drive toward reciprocity between the states. The amendments affect the following sections: 10.3, 10.4, 10.6, 10.9, 10.11, and 10.17. In the past, the Rule, as published in the *Louisiana Register*, showed the text of seven forms labeled and referenced as Appendices 1-7. These forms were not intended to be part of the Rule proper and are readily available to Continuing Education providers through the Department of Insurance. These forms will be removed from the Rule when republished in the *Louisiana Register*.

Title 37

INSURANCE

Part XI. Rules

Chapter 7. Rule 10—Continuing Education

§703. Rule 10.3 Basic Requirements

A. As a condition for the continuation of a license, a licensee must furnish the Department of Insurance, prior to the licensing renewal date, proof of satisfactory completion of approved subjects or courses having the required minimum hours of continuing education credit during each two-year licensing period.

1. - 4. ...

B. Failure to fulfill the continuing education requirements prior to the filing date for license renewal shall cause the license to write insurance to lapse. For a period of three years from the date of lapse of the license, the license may be renewed upon proof of fulfilling all continuing education requirements through the date of reinstatement and payment of all fees due. If the license has lapsed for more than three years, the license may be renewed only by fulfilling the requirements for issuance of a new license.

C. Property-casualty insurance agents shall complete 24 hours of approved instruction prior to each license renewal. Life-health insurance agents shall complete 16 hours of approved instruction prior to each license renewal. Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two-year period immediately preceding renewal of the license. Until May 1, 2003, up to ten (10) excess hours, acquired during the previous renewal period, may be carried forward and applied to the continuing education requirement.

D. Agents authorized to write both life-health and property-casualty insurance shall complete 20 hours of approved property-casualty instruction prior to each property-casualty license renewal. These agents shall also complete 12 hours of approved life-health instruction prior to each life-health license renewal. Each course to be applied toward satisfaction of the continuing education requirements must have been completed within the two-year period immediately preceding renewal of the license. Until May 1, 2003, up to ten (10) excess hours, acquired during the previous renewal period, may be carried forward and applied to the continuing education requirement.

E. Duplication of the same courses offered by the same provider will not be accepted as proof of compliance for continuing education requirements during the same renewal period.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S. 22:1193; and the Louisiana Administrative Procedure Act, R.S. 49:950 et. seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), amended LR 20:1391 (December 1994), LR 27:561 (April 2001).

§705. Rule 10.4 Applicability

A. - C. ...

1. Specialty classes of licenses including industrial fire, industrial life and health, credit life, credit health and accident, credit property, accidental death and dismemberment and/or vendor single interest which is written solely in connection with credit transactions, title, travel, baggage, auto clubs, home service, and other limited licenses.

2. ...

a. no longer actively engaged in the insurance business as an agent, broker or solicitor and who is receiving social security benefits, if eligible; or

b. actively engaged in the insurance business as an agent, broker or solicitor and who represents or operates through a licensed Louisiana insurer.

3. ...

D. If a licensee is unable to comply with continuing education requirements during the licensing period because of a disability, medical condition or similar reason, the commissioner may waive the continuing education requirements or may require the licensee to complete the required number of credit hours through correspondence courses. The following is necessary to request a waiver:

1. a current physician's statement supporting the licensee's disability/illness;

2. a description, in the licensee's own words of the disability/illness and the reason said disability/illness prevented the licensee from attending a classroom or completing a home study (correspondence) course;

E. The Department of Insurance anticipates and expects that licensees will maintain high standards of professionalism in selecting quality education programs to fulfill the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S. 22:1193; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), amended LR 20:1391 (December 1994), LR 27:562 (April 2001).

§709. Rule 10.6 Program Requirements

A. - D.2.a.iii ...

iv. Any other such subjects which may be related to the insurance industry. This may include but will not be limited to subjects such as securities and finance.

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

1. Any course used to prepare for taking an insurance or securities licensing examination.

E.2 - F.2. ...

a. Instructors must be qualified, both with respect to programs content and teaching methods. Instructors will be considered qualified if, through formal training or experience, they have obtained sufficient knowledge to instruct the course competently.

F.2.b. - G.4. ...

a. If a provider submits a course with materials published by a recognized publisher of insurance education materials, each and every student must be provided with a complete original text from that publisher as part of the registration fee for the approved continuing education course. This text shall be retained by the student and shall not be returned or resold to the provider. No substitute texts, outlines, summaries or copyright infringements will be allowed.

G.4.b. - M. ...

N. The Department of Insurance may accept the Midwest Zone Standard Continuing Education Filing Forms or any other uniform, standardized forms approved by the Department of Insurance and the necessary attachments as the forms required for approval of courses submitted by a nonresident continuing education provider, for courses previously awarded credit by the continuing education provider's home state. Courses that have not previously been awarded credit in the provider's home state must be approved pursuant to all other provisions of this Rule.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S.

22:1193; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), amended LR 20:1391 (December 1994), LR 27:562 (April 2001).

§715. Rule 10.9 Training Facility Requirements

A. - E. ...

F. Training aids, overhead viewing equipment availability and a proper visual layout of the classrooms should be addressed.

G. ...

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S. 22:1193; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), LR 27:563 (April 2001).

§719. Rule 10.11 Controls And Reporting

A. ...

B. Licensees must submit with the application for renewal of a license a signed continuing education statement, under oath, on a form prescribed by the department (Appendix 6 to this regulation), listing the courses that have been taken in compliance with this regulation copies of their certificate of completion (Appendix 5 to this regulation) for each of the courses completed.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S. 22:1193; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), LR 27:563 (April 2001).

§731. Rule 10.17 Periodic Review

A. The Rule set forth herein shall be reviewed by the Insurance Education Advisory Council every three years to determine if modifications to the Rule are necessary.

B. In the event modification of this Rule is thought to be necessary, a notice of a meeting to consider the modifications recommended by the Insurance Education Advisory Council shall be given in accordance with the provisions of R.S. 22:1354.C.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S. 22:1193; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), amended LR 20:1391 (December 1994), LR 27:563 (April 2001).

J. Robert Wooley
Acting Commissioner

0104#008

RULE

**Department of Public Safety and Corrections
Board of Private Investigator Examiners**

Duties of Executive Secretary; Meetings; Licensure; Registration Card; Continuing Education; Complaint Procedure; Motion for Continuance; Subpoena for Hearing (LAC 46:LVII.103, 105, 509, 515, 518, 721, and 915)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Department of Public Safety and Corrections, Board of Private Investigator Examiners, hereby amends Part LVII of Title 46, amending Chapter 1, Section 103.A, B and C; Section 105.B; Chapter 5, Section 509.A.9, Section 515.A, Section 518.C; Chapter 7, Section 721.A.4 and 5; Chapter 9, Section 913.C and Section 915.A to change the title "executive secretary" to "executive director"; and to amend Chapter 5, Section 515.A to delete the social security number from the list of items required to be placed on a registration card.

These rules and regulations are amendments to the initial rules and regulations promulgated by the Board of Private Investigator Examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LVII. Private Investigator Examiners

Chapter 1. Organizational and General Provisions

§103. Duties of Executive Director

A. The executive director shall be the chief administrative officer and shall serve at the pleasure of the board.

B. Subject to the supervision of and direction of the board, the executive director shall:

1. - 8. ...

C. The executive director may spend up to \$500 for board purchases without prior approval by the board or the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993), amended LR 27:563 (April 2001).

§ 105. Meetings of the Board

A. ...

B. The executive director shall give a written notice to all interested members of the public who make a timely request for notice of any board meeting.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993), amended LR 27:563 (April 2001).

Chapter 5. Application, Licensing, Training, Registration and Fees

§509. Form and Term of License

A. Licenses, when issued, shall be in the form of a wall certificate no larger than 82 inches by 11 inches in size. The certificate shall contain the following information:

1. - 8. ...
9. signature of executive director;

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993), amended LR 27:564 (April 2001).

§515. Registration Card

A. The registration card shall be no larger than 23 inches by four inches in size. The registration card shall contain the following information:

1. name of investigator;
2. name of agency under whose authority license is issued;
3. date of expiration;
4. current two inches by two inches color photograph;
5. drivers license number;
6. company name;
7. company address (city and state);
8. license number;
9. signature of executive director;
10. signature of license holder;
11. state insignia; and
12. board seal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993), amended LR 27:564 (April 2001).

§518. Continuing Education

A. - B. ...

C. Any licensee who wishes to apply for an extension of time to complete educational instruction requirements must submit a letter request setting forth reasons for the extension request to the Executive Director of the LSBPIE 30 days prior to license renewal. The Training Committee shall rule on each request. If an extension is granted, the investigator shall be granted 30 days to complete the required hours. Hours completed during a 30-day extension shall only apply to the previous year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:371 (May 1996), amended LR 27:564 (April 2001).

Chapter 7. Client-Investigator Relationship

§721. Complaint Procedure

A. A request for a hearing on a complaint before the Board of Private Investigator Examiners shall contain the following:

1. - 3. ...

4. a receipt showing a copy of the complaint has been sent to the person, or to a statement from the executive director stating that a copy of said complaint had been delivered to the person named in the complaint;

5. all complaints or requests for a hearing before the Private Investigator Examiners Board, must be made by certified or registered mail to the executive director or the PI Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1336 (October 1993), amended LR 27:564 (April 2001).

Chapter 9. Rules of Adjudication for Board of Private Investigator Examiners

§913. Motion For Continuance

A. - B. ...

C. If an initial motion for continuance is not opposed, it may be granted by the executive director. Any motion for continuance of hearing which is opposed shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding, who shall rule upon such motion on the papers filed, without hearing. The presiding officer, in his discretion, may refer any motion for continuance to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a motion for continuance may request that the motion be reconsidered by the entire panel. In any such case, the panel shall rule on such motion on the papers filed, without hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993), amended LR 27:564 (April 2001).

§915. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of §915, the executive director shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by a witness and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993), amended LR 27:564 (April 2001).

Charlene Mora
Chairman

0104#004

RULE

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Requirements, Classes of Permits, Expiration of Permit (LAC 55:IX.1507 and 1513)

Editor's Note: Sections 1503 and 1513 are being repromulgated to correct citation errors. The original Rule may be viewed in the March 20, 2001 edition of the Louisiana Register on page 423.

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 3:1354 relative to the authority of the Liquefied Petroleum Gas Commission to promulgate rules and regulations governing the storage, utilization, sale or transportation of anhydrous ammonia, the fabrication and installation of systems for the storage and utilization of anhydrous ammonia, and installation of all other anhydrous ammonia equipment, the Commission hereby amends its rules.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

Subchapter A. New Dealers

§1507. Requirements

* * *

H. All service and installation personnel, anhydrous ammonia transfer personnel and tank truck drivers must have a card of competency from the office of the director. All permit holders, except Class A-3X permit holders, must have at least one card of competency issued to their permit. A card of competency will be issued to an applicant upon receipt of a \$20 examination fee and successfully passing the

competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state=s examination which contains substantially equivalent requirements. This must be evidenced by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees must be paid prior to issuing the card.

H.1. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department Public Safety, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR:565 (April 2001).

§1513. Classes of Permits

A. - A.2.c.vi. ...

d. Must pay permit for first year=s operation in the amount of \$300 to the Liquefied Petroleum Gas Commission of the state of Louisiana. For succeeding years the permit fee shall be \$300.

A.2.e. - 6.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department Public Safety, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001)

Charles M. Fuller
Director

0104#005

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Horticulture Commission

Sweetpotato Weevil Quarantine (LAC 7:XV.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, hereby proposes to amend regulations regarding the Sweetpotato Weevil Quarantine regulations.

The Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, intends to bring the Sweetpotato Weevil Quarantine regulations up to date with current methods and technology in quarantine programs. The changes in the regulations will allow the implementation of a sweetpotato weevil eradication program, requested by industry.

This rule is enabled by R.S. 3:1652 and 3:1732.

Title 7

Agriculture and Animals

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter A. General Plant Quarantine Provisions

§103. Definitions

* * *

Certificate Permit—a written document, stamp, or other form of identification approved by the department, which authorizes the movement, sale or offer for sale or storage of plants, plant products or parts thereof or regulated materials.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:317 (April 1985), amended LR 27:

Subchapter C. Sweetpotato Weevil Quarantine

§133. Applicability of General Quarantine Regulations

A. Sweet potato plants, plant products and parts thereof and host materials for the sweetpotato weevil are subject to all pertinent provisions of the general quarantine regulations contained in Subchapter A and to the regulations contained in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992), LR 27:

§135. Definitions Applicable to this Subchapter

A. In addition to definitions found in §103, the following definitions shall also be applicable to this Subchapter.

Commercial Kiln and Storage Houses—any buildings where sweet potatoes produced by different farmers or growers are assembled and stored.

Compliance Agreement—a written agreement between the department and a Sweet Potato Dealer in which the dealer agrees to comply with the General Plant Quarantine Regulations, the provisions of this Subchapter and any conditions specified in the agreement.

Farm Kiln or Storage House—a building or enclosed structure located on a farm in which sweet potatoes grown solely on said farm are stored.

Non-Sweet Potato Area—any area in which the planting, bedding, growing, or storing of any material which acts as a host for the sweetpotato weevil is prohibited.

Platform Inspection—a visual examination by an inspector of sweet potatoes that have been cleaned and packed or containerized prior to the issuance of a certificate permit.

Processing Plants—canning, freezing and dehydrating plants.

Sweet Potato Dealer—a person engaged in the growing for sale, offering for sale, moving or brokering of sweet potatoes, except as noted in §147.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992), LR 27:

§137. Issuance and Use of Certificate Permits, Certificate Permit Tags, and Fumigation Certificates for the Movement of Regulated Material

A. From Sweetpotato Weevil-Free Designations

1. Green certificate permit tags will, upon request to the department, be issued to any person whose growing, packing and storage facilities are designated by the department as sweetpotato weevil-free and who meet the following conditions.

a. The person has a valid sweet potato dealer's permit as required by these regulations.

b. The properties or premises of the person, where regulated materials are grown or stored, have been trapped or surveyed for sweetpotato weevil during the growing season in a manner approved by the department and have been found by the department to be free from sweetpotato weevil.

2. Certificate permits authorizing the movement of regulated material from sweetpotato weevil-free areas or properties or premises to points within and outside of Louisiana will be issued by the department under the following conditions.

a. The person moving the regulated material has a valid sweet potato dealer's permit as required under these regulations.

b. The person has signed a compliance agreement with the department specifying the handling of the regulated

material to be moved and the proper use of the certificate permits.

3. Green certificate permit tags shall be attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such. Green certificate permit tags shall not be reused.

4. Regulated material moving into areas or properties or premises of Louisiana or into a portion of any other state designated as sweetpotato weevil-infested, unless moving under the provisions set forth in §139.D.2.c, shall not be moved back into any Louisiana sweetpotato weevil-free designated area and shall lose its sweetpotato weevil-free status.

B. From Sweetpotato Weevil-Infested Designations

1. Pink certificate permit tags will, upon request to the department, be issued to any person whose growing, packing and storage facilities are designated by the department as sweetpotato weevil-infested and who possess a valid sweet potato dealer's permit as required under the provisions of these regulations.

2. Certificate permits authorizing the movement of regulated material from or within sweetpotato weevil-infested areas or properties or premises will be issued by the department under the following conditions.

a. The person has a valid sweet potato dealer's permit as required under the provisions of these regulations.

b. The person has signed a compliance agreement with the department specifying the handling of the regulated material to be moved and the proper use of the certificate permits.

c. The regulated material shall not be moved from a sweetpotato weevil infested designated area into a sweetpotato weevil-free designated area, or to any state which may prohibit entry of such regulated material, unless fumigated under the provisions set forth in §138.

d. If regulated materials are moved, then the regulated materials shall be completely enclosed in the vehicle body or covered tightly by tarpaulins or other means approved by the department in advance of movement.

e. Certificate permits attesting to regulated material fumigation and authorizing the movement of regulated material from areas or properties or premises designated as sweetpotato weevil-infested will be issued when such regulated material is inspected, found apparently free of the sweetpotato weevil and fumigated under the provisions set forth in §138 hereof.

3. Pink certificate permit tags shall be attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such tags. Pink certificate permit tags shall not be reused.

C. No regulated material may be moved or shipped within or out of Louisiana unless

accompanied by a valid certificate permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 14:527 (August 1988), LR 16:600 (July 1990), LR 18:702 (July 1992), LR 27:

§138. Fumigation and Maintenance of Weevil-free Status of Regulated Materials Originating From Designated Sweetpotato Weevil-Infested Areas or Properties or Premises

A. Fumigation Measures. Persons operating storage houses and/or packing sheds who desire to move regulated materials from areas or properties or premises designated by the department as sweetpotato weevil infested into areas or properties or premises designated as sweetpotato weevil-free, or to any state which may prohibit entry of such regulated material, shall:

1. Enlist the services of a certified fumigator to perform the fumigation.

2. Possess a valid fumigation certificate issued by a certified fumigator, indicating that the fumigation was done in accordance with all fumigant label requirements and in a manner approved by the department. Each fumigation certificate shall state the conditions and dates of fumigation.

3. Fumigate with fumigants labeled for use on the regulated material and formulated and used in a manner and at a concentration approved by the department.

B. Maintenance of Weevil-free Status. Regulated materials shall be maintained in such a manner that the integrity of their weevil-free status following fumigation is retained.

1. Fumigation Chamber. Fumigated regulated materials may be stored in a fumigation chamber approved by the department, designed specifically for fumigating and storing regulated materials. The chamber shall be airtight with a self contained, screened exhaust system in place; shall possess doors that seal; shall contain a minimum of 1,000 cubic feet of space, and larger chambers must be designed to contain an even multiple of 1,000 cubic feet; shall be cleaned of all sweet potatoes, parts, and any other regulated materials between periods of fumigation and storage.

2. Tractor trailer rigs designed and constructed for use in fumigations may be used in place of a fumigation chamber provided the truck body meets the fumigation chamber requirements outlined above, with the exception of the cubic feet requirement. A variation in truck body cubic feet shall be allowed provided the variation allows adequate volume to fumigate according to the fumigant label. All entrances or openings on the truck body shall be sealed in a manner approved by the department, prior to shipment, by the use of not more than two seals.

3. If an approved fumigation chamber or tractor-trailer rig is not used then fumigation and storage of regulated materials shall be conducted as follows.

a. Regulated materials shall be placed in a storage area separate from and in no way connected to any other storage or packing areas containing non-fumigated regulated materials. Storage area must be cleaned of all sweet potatoes, parts, and any other regulated materials between periods of storage.

b. The storage area shall have been treated with an appropriately labeled chemical and in a manner approved by the department prior to initial storage of sweet potatoes harvested and fumigated that season and the storage area shall not be used to store any non-fumigated regulated materials.

c. Fumigation shall be accomplished by tenting the regulated material with a sealed tarpaulin or other suitable

sealable material of adequate thickness and construction for use in fumigation with commercial fumigants.

d. Regulated materials shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material prior to, during and following fumigation. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes.

4. Packing House or Shed Sweet potatoes fumigated, screened and stored according to these regulations may be washed and packed in the same packing house or shed as non-fumigated sweet potatoes, provided:

a. The packing house or shed and all packing equipment is cleaned of all sweet potatoes, parts, and any other regulated materials prior to washing and packing of fumigated sweet potatoes.

b. Packing house or shed is treated with an appropriately labeled chemical and in a manner approved by the department prior to each packing period involving fumigated sweet potatoes.

5. All packing boxes and other packing and shipping materials shall be held in a storage area separate from and in no way connected to any other non-fumigated materials, or be fumigated and stored according to these regulations.

6. Fumigated sweet potatoes washed and packed under approved conditions must be shipped within seven days of packing. Washed and packed sweet potatoes shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material immediately following packing and must remain enclosed until shipment. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes. Fumigated, screened sweet potatoes awaiting shipment shall be labeled with the dates of fumigation.

7. Trucks or other vehicles used to ship fumigated sweet potatoes from sweetpotato weevil infested areas or properties or premises shall be cleaned of all sweet potatoes, parts, and any other regulated materials prior to hauling fumigated sweet potatoes. Vehicle compartments previously containing shipments of non-fumigated regulated materials that were moved from or within designated sweetpotato weevil infested areas or properties or premises must be treated with an appropriately labeled chemical and in a manner approved by the department prior to loading fumigated sweet potatoes for shipment.

8. No non-fumigated sweet potatoes shall be stored, loaded or shipped with fumigated sweet potatoes.

C. Issuance of Certificate Permit Tags. Manila certificate permit tags will be issued by the department to persons meeting all sweetpotato weevil quarantine regulation and compliance agreement requirements and who desire to ship regulated materials that have been properly fumigated from areas or properties or premises designated by the department as sweetpotato weevil infested into areas or properties or premises designated as sweetpotato weevil-free, or to any state which may prohibit entry of such regulated material. Permit tags shall be attached to or within each container in a load or shipment of fumigated sweet potatoes and shall not be reused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences,

LR 16:600 (July 1990), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:703 (July 1992), LR 27:

§139. Effect of Quarantine for Sweetpotato Weevil

A. Sweetpotato Weevil-Free Designations of Louisiana

1. The growing or storing of regulated material, including seed beds and field plantings of sweet potatoes is prohibited in areas or properties or premises declared to be non-sweet potato areas, except under special permit issued by the department. Non-sweet potato areas may include but are not limited to sweetpotato weevil-infested properties or premises, as determined by survey or trapping procedures conducted in a manner approved by the department, located in those areas of the state designated by the department as sweetpotato weevil-free.

2. Any regulated material found in non-sweet potato areas shall be disposed of in a manner approved by the department.

3. Regulated materials, properties or premises found to contain sweetpotato weevil may be subject to required treatments, handling restrictions, or destruction as determined by the department.

B. Sweetpotato Weevil-Infested Designations of Louisiana

1. Owners or persons in charge of properties or premises supporting active infestations of sweetpotato weevil within those areas or properties or premises of the state designated as sweetpotato weevil-infested may save their own seed sweet potatoes, provided that:

a. such seed sweet potatoes are graded in a manner sufficient to render them apparently free of the sweetpotato weevil;

b. such seed sweet potatoes are properly treated in a manner approved by the department at the time of storage;

c. no seed sweet potatoes, plants, vines and/or cuttings shall be sold, offered for sale or moved except those which have been inspected by the department and found to be apparently free of the sweetpotato weevil.

2. Regulated materials, properties or premises supporting active infestations of sweetpotato weevil within those areas of the state designated as sweetpotato weevil-infested may be subject to required treatments, handling restrictions, or destruction as determined by the department.

C. Statewide

1. Sweet potatoes in seedbeds shall be destroyed within 15 days after such potatoes have served their purpose, and not later than July 15 of each year. Destruction shall be in such a manner that all sweet potatoes, plants and parts are brought to the soil surface and exposed, or in such other manner as may be prescribed by the department.

2. All sweet potato fields shall be harvested by December 1 of each year by the owner of the crop. Such fields shall be destroyed within 15 days after harvesting, and not later than December 15 of each year. Destruction shall be in such a manner that all remaining sweet potatoes, plants and parts are brought to the soil surface and exposed, or in such other manner as may be prescribed by the department.

3. Sanitary Measures. Persons operating packing sheds, assembly points, processing plants and/or storage houses shall:

a. not permit loose sweet potatoes or parts of sweet potatoes to accumulate in or around any structure in which sweet potatoes are cleaned, packed, processed or stored;

b. render waste sweet potatoes and sweet potato parts unsuitable for or unavailable to the sweetpotato weevil by processing or disposal in a manner approved by the department. If it is necessary to haul host material from the place of accumulation for processing or disposal, such hauling shall be done in an approved tight-body truck or container and covered with a tarpaulin when necessary;

c. not allow sweet potatoes, sweet potato crowns and roots or parts thereof to be carried away from storage houses, processing plants, packing sheds or assembly points in water used in washing sweet potatoes;

d. not permit the sale, offer for sale or movement to any person or farm of culled sweet potatoes or sweet potato parts, except under special permit issued by the department; and

e. not move empty containers or equipment used in the handling of sweet potatoes from packing sheds or processing plants unless cleaned free of all host materials.

D. Regulated Material From Other States

1. Sweet potatoes, sweet potato plants, plant products and parts thereof, host materials, and containers and equipment used in handling sweet potatoes may not enter Louisiana unless accompanied by valid certification from the state of origin.

2. A valid state-of-origin certificate permit tag shall be attached to or placed within each container in a load of sweet potatoes entering Louisiana.

a. Only regulated material certified as grown, stored and inspected in a portion of the state of origin designated as sweetpotato weevil-free, or fumigated in accordance with these regulations, shall enter those areas or properties or premises of Louisiana designated sweetpotato weevil-free unless moving under the provisions of this Section.

b. Regulated material grown, stored or inspected in a portion of the state of origin designated sweetpotato weevil-infested or sweetpotato weevil regulated, and inspected and found apparently free of sweetpotato weevil, shall enter only those areas or properties or premises of Louisiana designated sweetpotato weevil-infested unless moving under the provisions of this Section.

c. Movement of regulated material from sweetpotato weevil-infested or sweetpotato weevil regulated areas or properties or premises through those areas or properties or premises of Louisiana designated sweetpotato weevil-free is prohibited, except when moved by common carrier with a through bill of lading; or, if moved by truck or any other conveyance, said conveyance shall be sealed by the state of origin, shall have no additional regulated material added to the shipment, and shall not be unloaded within designated weevil-free areas or properties or premises of Louisiana.

d. Regulated material originating in areas or properties or premises designated sweetpotato weevil-free that is moved into any area or property or premise designated sweetpotato weevil-infested or sweetpotato weevil regulated, except under the provisions of this Section, shall not be moved back into any designated sweetpotato weevil-free area or property or premise and shall lose its sweetpotato weevil-free status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences,

LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:704 (July 1992), LR 27:

§141. Handling, Storage and Processing of Sweet Potatoes Within Those Areas or Properties or Premises of the State Designated Sweetpotato Weevil-Infested

A. Sweet Potatoes Treated with Approved Chemicals. There shall be no date limit on the shipment of sweet potatoes from those areas or properties or premises of the state designated sweetpotato weevil-infested, provided:

1. sweet potatoes to be marketed after April 1 following the year of production must be treated before February 28 with a chemical or chemicals labeled for sweet potato use and approved by the department; and

2. sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the department as soon as possible after final disposal of a crop of sweet potatoes.

B. Sweet Potatoes Not Treated with Approved Chemicals and/or Heavily Infested with Sweetpotato Weevil. Unprocessed sweet potatoes shall not:

1. be held in processing plants, warehouses or other storage houses on properties or premises supporting active infestations of sweetpotato weevils;

2. be moved in any manner except as provided for in §139.C.3.b;

3. be sold or offered for sale after April 1 following the year of production, except seed sweet potatoes that are apparently free of sweetpotato weevils and have been properly treated as prescribed in this Section.

C. This provision shall apply to all sweet potatoes even though previously inspected and certified for sale and movement.

D. Sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the department unless a special permit extending the deadline is issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:

§143. Fees

A. A fee of four cents per bushel shall be charged for each bushel of sweet potatoes moved or shipped within or out of Louisiana.

B. The fee charged for sweet potatoes moving to processing plants shall be collected on the basis of the amount of purchase less 10 percent for breakdown and shrinkage while in storage.

C. A fee of five cents per thousand shall be charged for vines, plants, slips or cuttings moved or shipped within or out of Louisiana.

D. Method of assessing fees and time when fees are to be assessed.

1. Fresh Market

a. Fees will be assessed based on average marketable yield per acre for each acre of sweet potatoes

planted. The Louisiana Sweet Potato Advertising and Development Commission will determine the average yield.

b. The total acres planted by each producer will be officially determined through the use of global positioning technology or other, similarly technical means, under departmental oversight. Each producer will be provided a mapped copy of his production fields and the acres of each field.

c. One-half of the total fee assessment shall be paid on or before November 1 of each year and the remaining balance shall be paid on or before March 15 of each year.

2. Processing PlantsXassessed at the time the sweet potatoes are moved into a plant for processing or packed to be shipped as non-processed potatoes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655, R.S. 3:1732 and R.S. 3:1734.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:77 (February 1989), LR 18:705 (July 1992), LR 27:

§145. Penalties for Violation of Sweetpotato Weevil Quarantine

A. Any person violating any portion of the sweetpotato weevil quarantine regulations, or any portion of a signed compliance agreement with the department, may be called to an adjudicatory hearing held in accordance with the Administrative Procedure Act and may be subject to a civil penalty of not more than \$5,000 per each violation per day. Proportionate costs of the hearing may be assessed against the violator. The amount of these costs shall be limited to attorneys' fees as charged to the department for the actual hearing and preparation for the hearing; and actual cost of departmental personnel time in processing violations.

B. A sweet potato dealer's permit may be suspended, revoked or placed on probation if the holder thereof fails to comply with the provisions of these regulations or with the provisions of a signed compliance agreement with the department, subject to a finding in support of such action in a properly conducted adjudicatory hearing.

C. Sweet potato plantings found in a non-sweet potato area may be destroyed at the expense of the person or persons responsible for the plantings.

D. Regulated material found in violation of these regulations or in violation of a signed compliance agreement with the department may be destroyed and/or disposed of in a manner approved by the department at the expense of the person or persons responsible for the regulated material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:

§147. Sweet Potato Dealer's Permit

A. All persons, including sweet potato growers and farmers, commercially growing, selling or offering for sale sweet potatoes shall not grow, move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes without a valid Sweet Potato Dealer's Permit.

B. Applicants for Sweet Potato Dealer's Certificate Permit shall complete and file the application required by the department, which shall set forth the following conditions:

1. a guarantee to reimburse any purchase price of sweet potatoes which are confiscated because of sweetpotato weevil infestation or unauthorized sale, offer for sale or movement;

2. an agreement to permit, at the dealer's cost, the disposal or destruction by an inspector of the department or the return to point of origin of any sweet potatoes sold, offered for sale, moved or moving without authorization, or infested with sweetpotato weevil.

3. a signed agreement to comply with any and all sweet potato quarantine regulations and any conditions specified in the agreement.

C. The provisions of this Section do not apply to retail grocers and other retail outlets selling or offering for sale sweet potatoes possessing a valid certificate permit and/or certificate permit tags indicating that the sweet potatoes have been inspected, and that are sold or offered for sale directly to the consumer from a permanent building at a permanent location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1653, R.S. 3:1655, R.S. 3:1732 and R.S. 3:1735.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:

Family Impact Statement

The proposed amendments to Rule LAC XV. Chapter 1 regarding the Sweetpotato Weevil Quarantine regulations should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons may submit written comments on this proposed rule through May 25, 2001, to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble concerning the proposed rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sweetpotato Weevil Quarantine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Department of Agriculture and Forestry intends to bring the Sweetpotato Weevil Quarantine regulations up to date with current methods and technology in quarantine programs. Additionally, the changes in the regulations will

allow the implementation of a sweetpotato weevil eradication program, requested by industry. The proposed rule will allow us to shift our resources from the packing sheds to the field. In order to accomplish these changes, we are also changing the method of assessing fees already being collected. Although the entire rule is being submitted, much of the notice is currently in place. Since the changes, many of which are purely technical in nature, are included throughout the body of the existing rules, we are resubmitting the entire Subchapter. There will be no increase in costs or savings to state or local governmental units. There will be an overall reduction in paperwork.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no net effect on costs to the industry. However, the proposed change in the method of assessing fees will shift some of the burden of fee payment from packers to growers. There is no method of providing an estimate of the amount. The change in the program should result in an increase in the marketable yield of sweet potatoes due to increased insect control.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The changes in the program may assist the sweet potato industry in Louisiana in being able to better compete with North Carolina, resulting from a better quality product coming out of the production fields.

Bob Odom
Commissioner
0104#047

Johnny R. Rombach
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences**

**Structural Pest Control
(LAC 7:XXV.119 and 141)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding combination liquid spot and bait and baiting system termite treatments.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to allow a liquid spot and a bait and baiting system treatment to be contracted with one contract and to set the fee for said contract.

This rule complies with and is enabled by R.S. 3:3203.

Title 7

Agriculture and Animals

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§119. Contracts for Termite Control Work

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

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than one year after the treatment is made;
3. guarantee treatment of the property in accordance with minimum specifications for termite control work set forth in 141 hereof; and

4. provide for at least one inspection of the property prior to expiration of the agreement;

5. each contract must include an inspection diagram.

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

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

D. Contracts for combination liquid spot and bait and baiting system termite treatments shall follow the requirements under §119. A., B., E. and F.

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

F. The licensee shall pay a \$5 fee for each standard contract and shall pay an \$8 fee for each combination contract for liquid spot and bait and baiting system treatments reported under §119.E. above when the required monthly report is filed.

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

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

§141. Minimum Specifications for Termite Control Work

A. - J.8.f. ...

K. Requirements for Combination Liquid Spot and Baits and Baiting Systems Treatments

1. Any licensee or any person working under the supervision of a licensee, who applies a combination liquid spot and baits and/or baiting systems treatments, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to any application of the bait or baiting system.

2. Combination of liquid spot and bait and baiting systems treatments shall be used according to label and labeling.

3. All combination liquid spot and baits and baiting systems treatments shall be contracted and reported according to R.S. 3:3370 and LAC 7:XXV.119.E. and pay the fee as described in LAC 7:XXV.119.F.

4. Records of contracts, graphs, monitoring (if required), and applications shall be kept according to LAC 7:XXV.117.I. At termination of the contract, the pest control operator shall remove all components of bait and baiting systems.

5. All structures that cannot be treated according to the combination liquid spot and bait and baiting systems

treatment minimum specifications must have a waiver of the listed item or items signed by the owner prior to the baiting treatment. A copy of signed waiver must be filed with the Louisiana Department of Agriculture and Forestry with the monthly termite eradication reports.

6. A bait and baiting systems consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

7. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction shall bait following the label and labeling and liquid spot treat to the following minimum specifications:

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) around the perimeter of the structure, adjacent to the foundation wall. All trenches must be approximately four inches wide at the top, angled toward the foundation and sufficiently deep (minimum six inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be four inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.K.7.a. When the abutting slab is drilled, the holes must be no more than 18 inches apart, unless label requires closer distance along the above stated areas.

c. Treat bath trap(s) as per label and labeling. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap must be filled to within two inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap must also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pore, it must be drilled and treated as close as practical to the bathtub plumbing.

d. All showers must be drilled and treated as close as practical to shower plumbing according to label and labeling.

e. All other openings (plumbing, etc.) must be treated as required by label and labeling.

8. Combination liquid spot and bait and baiting systems treatments of existing pier-type construction with live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat to the following minimum specifications:

a. Trench and treat 10 feet on both sides of infestation site(s) on brick/block chain wall(s) and all piers within 10 feet of an infested pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

9. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction and pier-type construction without live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat as required in LAC 7:XXV.141.K.7.c-e.

10. Whenever any property under a combination liquid spot and bait and baiting systems treatment contract becomes infested with subterranean termites, the operator shall treat the property according to the minimum specifications as stated in LAC 7:XXV.141.K.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 27:

Family Impact Statement

The proposed amendments to Sections XXV.§119 and §141 regarding combination liquid spot and bait and baiting system termite treatments should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on this proposed rule to Bobby Simoneaux through May 25, 2001 at 5825 Florida Boulevard, Baton Rouge, LA 70806. A public hearing will be held on these rules on May 25, 2001 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Structural Pest Control

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is estimated to be no implementation cost or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Currently the cost of contracts is \$5 each. The cost to the consumer for a contract for baits as well as a separate contract for liquid spot treatments would be \$10. The proposed rule will allow one contract and a fee of \$8, which is the maximum allowable under law to be paid to the state. The rule will reduce the number of contracts, however the increase in fee will offset the change in revenue. There is little estimated effect anticipated for revenue collections by the state and no effect to local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Currently the cost of contracts is \$5 each. The cost to the consumer for a contract for baits as well as a separate contract for liquid spot treatments would be \$10. The proposed rule will allow one contract and a fee of \$8, which is the maximum allowable under law to be paid to the state. The rule will simplify number of contracts a consumer will be required to have under current rules. This is a benefit to the affected persons, however, there are no other estimated cost or economic benefits to the affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Bob Odom
Commissioner
0104#048

Johnny R. Rombach
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Weights and Measures Commission**

Agro-Consumer Services
(LAC 7:XXXV.135)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Weights and Measures Commission, hereby proposes to adopt regulations regarding meat labeling requirements set out in R.S. 51:614.

The Department of Agriculture and Forestry, Weights and Measures Commission is adopting regulations in order to implement the meat labeling law set forth in R.S. 51:614. This rule requires all meat to be labeled "American", "Imported", and "blend of imported and American meats" on the wrapping or on a card for display.

This rule complies with and is enabled by R.S. 3:4608, R.S. 3:4607 and R.S. 51:614.

Title 7

Agriculture and Animals

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§135. Meat Labeling

A. As used in this Section the following terms are defined as:

American—any meat that is produced in the United States or which is processed in the United States at a federal or state approved processing or repacking plant for distribution at wholesale.

Blend—any combination of American and foreign meat.

Imported—any meat produced in a foreign country that has not been processed at a federal or state approved processing plant for distribution at wholesale.

B. Unless otherwise provided in this Section, all processed or unprocessed meat sold in Louisiana, whether fresh or frozen, shall indicate the meat's country of origin.

1. The country of origin or designations *American*, *imported* or *blend of imported and American meats* shall be indicated in clear and conspicuous letters in English.

2. All meat shall be labeled with one of the following designations, *American*, *imported* or *blend of imported and American meats* or shall contain the name of the country of origin preceded by the *product of*.

Example: Meat produced in the United States would be labeled "American" or "Product of U.S.A."

3. Meat displayed for sale or sold unwrapped shall contain the proper designation as to the country of origin on the meat, or on the immediate container or wrapping, or on a sign included with the display.

4. If an establishment sells only American meat, then a placard indicating that only American meat is sold will be sufficient to meet the requirements of these regulations.

C. The provisions of this Section shall not apply to prepared meat that is sold at retail for consumption on the premises and fully cooked meat as defined by the United States Department of Agriculture Food Safety Inspection Service rules and regulations.

D. The Commissioner of Agriculture and Forestry, the Weights and Measures Commission and the Department of Agriculture and Forestry shall have the power and authority granted under the Weights and Measures Law to enforce the provisions of this Section.

E. The penalty for any violation of this Section shall be as provided in R.S. 51:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 27:

Family Impact Statement

The proposed amendments to Rule XXXV.135 regarding meat labeling requirements set out in R.S. 51:614 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on this proposed rule to Ronnie Harrel through May 25, 2001 at 5825 Florida Boulevard, Baton Rouge, LA 70806. A public hearing will be held on this rule on May 25, 2001 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding this rule is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Meat Labeling

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no estimated implementation cost to state or local governmental units. These regulations implement the meat labeling rules and regulations set out in R.S. 51:614. This law requires all meat to be labeled "American", "Imported", or "blend of imported and American meats" on the meat, the wrapping or a card with the display. The department is currently utilizing current employees to implement these rules and regulations.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is estimated to be no effect on revenue collections for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The estimated cost to retailers for the labeling of their meat will be very minimal. In order to comply with R.S. 51:614 all the distributors and retailers need do is place a placard above any meat that does not state its origin on the label. The placard for display should read labeled "American", "Imported", or "blend of imported and American meats."

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment.

Bob Odom
Commissioner
0104#046

Johnny R. Rombach
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

**Employee Training Requirements; Probation;
and Preferred Reemployment List**

The Civil Service Commission will hold a public hearing on Wednesday, May 2, 2001 to consider the following rule proposals. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

The following will be considered at the meeting.

Amend Rule 7.4 to add subsection (f)

7.4. Minimum Qualifications

a. - e. ...

f. The commission shall establish mandatory training for employees who occupy or are appointed to designated supervisory, managerial or administrative jobs. Each department shall advise employees who occupy these jobs of the training requirements. Employees who fail to meet the required training within the specified period of time may be disciplined or removed in accordance with Chapter 12 of the Civil Service Rules.

Explanation

This proposed provision will increase skill level and supervisory ability among the higher levels of classified supervisory, managerial and administrative employees as it

will require that these employees obtain job-related training to remain in the positions.

Amend Rule 8.10.1

8.10.1 Probationary Appointment

(a) When a vacancy in a continuing position is filled by the original appointment of an eligible from a list certified by the Director or by the original appointment of a qualified person to a position in a class designated as noncompetitive under the provisions of Rule 7.20, such appointment shall be for a probationary period in accordance with Chapter 9 of these Rules.

(b) The commission may designate jobs at the supervisory, managerial or administrative levels which, when filled in a permanent manner, shall be filled by probational appointment only.

1. A permanent employee who accepts such a probational appointment shall be considered as having permanent status for the purpose of layoff or layoff avoidance measures.

2. A permanent employee who accepts such a probational appointment and then moves, without a break in service, into a position that does not require a probational appointment, may, at the option of the hiring agency, revert to permanent status in the new position.

Explanation

This proposed amendment would provide departments with an additional option for managing performance in higher level supervisory, managerial and administrative positions as it will provide for a probationary period for employees placed into these positions.

Amend Rule 9.1(f)

9.1 Probationary Period

a. - e. ...

f. A former employee who is appointed from a department preferred reemployment list is not required to serve a probationary period in the new position, unless the position is one that can be filled only by a probationary appointment, in accordance with Rule 8.10.1(b).

Amend Rule 17.26

**17.26. Status of Employee Appointed from Department
Preferred Reemployment List**

An employee who is reemployed in a permanent position following certification from a department preferred reemployment list shall have permanent status in the position, unless the position is one that can be filled only by a probationary appointment, in accordance with Rule 8.10.1(b).

Explanation

These changes accommodate the provisions of newly proposed Rule 8.10.1(b).

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Allen H. Reynolds
Director

0104#019

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Architectural and Construction Services Combination

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the adoption of LAC 46:I.1121 pertaining to the board's interpretation of R.S. 37:141(B)(3). R.S. 37:141(B)(3) defines the practice of architecture, and the board proposes to interpret this definition as it pertains to a partnership or corporation offering a combination of architectural services together with construction services.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 11. Administration

§1121. Interpretation of R.S. 37:141(B)(3), Design/Build

A. A partnership or corporation offering a combination of architectural services together with construction services may offer to render architectural services only if:

1. an architect registered in this state or otherwise permitted to offer architectural services participates substantially in all material aspects of the offering;
2. there is written disclosure at the time of the offering that such architect is engaged by and contractually responsible to such partnership or corporation;
3. such partnership or corporation agrees that such architect will have responsible control of the architectural work and that such architect's services will not be terminated prior to the completion of the project without the consent of the person engaging the partnership or corporation; and
4. the rendering of architectural services by such architect will conform to the provisions of the architectural registration law and the rules adopted thereunder.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 27:

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Architectural and Construction Services Combination

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is believed that most entities that are presently offering in Louisiana a combination of architectural services together with construction services are already complying with the requirements of the proposed rule, and the proposed rule will thus have no economic impact on those entities. Those entities which are not complying with the requirements of the proposed rule will be required to comply, and those entities may incur some costs in doing so. Except in a rare case where an entity may be offering architectural services without an architect having responsible control of the architectural work, it is anticipated that such costs will be nominal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since it is believed that most entities offering a combination of architectural services together with construction services are already complying with the proposed rule, it is anticipated that the proposed rule will have a minimal impact on competition and employment in the public and private sectors.

Mary "Teeny" Simmons
Executive Director
0104#007

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Compliance Handbook 2200XGuidelines for Personnel Evaluation

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 revisions to Compliance Handbook 2200, *Guidelines for Personnel Evaluation* (Formerly Bulletin 1525), referenced in LAC 28:I.917.A, promulgated by the Board of Elementary and Secondary Education in LR 5:168 (July 1979). In order for Compliance Handbook 2200, *Guidelines for Personnel Evaluation*, to be in conformity with R.S. 17:3883, 17:3903, 17:3904, and 17:3905 it was revised to eliminate the Department of Education's required monitoring of the local implementation. Monitoring of the local personnel evaluation programs is to occur as deemed necessary and requested by the SBESE.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§917. Personnel Evaluation Standards and Regulations

A. Compliance Handbook 2200 (Formerly Bulletin 1525)

* * *

AUTHORITY NOTE: Mandated by Act 1 of the 1994 Louisiana Legislature, Third Extraordinary Session, and Act 38 of the Extraordinary Session of the 2000 Louisiana Legislature under the authority of R.S. 17:3881-3884, R.S. 17:3901-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 5:168 (July 1979), amended LR 25:251 (February 1999), LR 27:

Chapter 1. An Overview

Preface

The *Guidelines for Personnel Evaluation* handbook is designed to assist local school districts in the development and implementation of effective professional employee evaluation programs. This document reflects local personnel evaluation legislation as well as the State-approved guidelines for its implementation.

This handbook is divided into four major chapters. Chapter One provides a contextual background for local personnel evaluation programs. The *Historical Perspectives* section cites state legislation and State Board of Elementary and Secondary Education policies that govern local personnel evaluation programs. The *Philosophy and Purposes* section provides a rationale for these programs, while the *Implementation* section provides a brief guide to annual action steps to be taken by local districts. The final section of the first chapter, *Framework for Personnel Evaluation Programs*, lists the recommended and required components for local personnel evaluation plans.

Chapter Two, *A Template for Personnel Evaluation Plans*, provides a detailed explanation of the components identified as essential components in the framework for Personnel Evaluation Programs. The template is provided to aid local districts in the development and/or revision of personnel evaluation programs. Chapter Three, *Reporting and Monitoring*, explains the types of reporting, monitoring, and assistance that are required and/or available to local school districts.

The final chapter, *Appendices*, provides primary source materials that guide and support the elements presented in this handbook. The appendices include

- (1) the Panel II Report Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs;
- (2) the Louisiana Components of Effective Teaching;
- (3) the Standards for School Principals in Louisiana 1998;
- (4) state legislation governing personnel evaluation programs; and
- (5) a personnel evaluation glossary.

Historical Perspective of Personnel Evaluation in Louisiana

As required by R.S. 17:391.5, R.S. 17:24.3 (Act 621 and Act 9) of the 1977 Louisiana Legislature; and R.S. 17:391.10 (Act 605) of 1980, all local educational agencies (LEAs) in Louisiana developed accountability plans to fulfill the requirements as set forth by the laws. Specifically, Act 621 of 1977 established school accountability programs for all certified and other professional personnel. Act 9 of 1977 established a statewide system of evaluation for teachers and principals. Act 605 of 1980 gave the Louisiana Department of Education (LDE) the authority to monitor the LEAs' personnel evaluation programs. In passing these acts, it was the intent of the legislature to establish within each LEA a

uniform system for the evaluation of certified and other professional personnel.

Act 506, R.S. 17:391.5, as enacted and amended during the 1992 Regular Session of the Louisiana Legislature, revised and reenacted previous LEA accountability legislation. It included provisions to strengthen and make more uniform the local teacher evaluation practices within the public schools of Louisiana. During the spring of 1992, the State Board of Elementary and Secondary Education (SBESE) authorized the convening of a Local Teacher Evaluation Program Panel (Panel II) to develop guidelines for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. Superintendents, principals, and teachers were represented on this panel. Panel II operated under the assumption that local teacher evaluation programs would be standardized if they were grounded in the same statement of philosophy and purposes, if they used common criteria to evaluate teachers, and if they included uniform procedures and guidelines.

The guidelines to strengthen local teacher evaluation programs including the Louisiana Components of Effective Teaching were entitled "*Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs*" (Appendix A) and were approved by the SBESE in September 1992. These guidelines are integrated into the content of this document. Appendix A, along with the requirements of the local accountability legislation, formed the basis for the local evaluation programs.

The SBESE also authorized the convening of the Louisiana Components of Effective Teaching (LCET) Panel (Panel I) during the spring of 1992. The charge of Panel I was to determine and to define the components of effective teaching for Louisiana's teachers. The components were to reflect what actually takes place in the classroom of an effective teacher. This thirty-five member panel was composed of a majority of teachers. The resulting *Louisiana Components of Effective Teaching* (Appendix B), which is a descriptive framework of effective teacher behavior, is intended to be a uniform element that serves as evaluation criteria in the local teacher evaluation programs.

In 1994, Act I of the Third Extraordinary session of the 1994 Louisiana Legislature was passed. Act I amended and reenacted several statutes related to Local Personnel Evaluation. In April 2000, Act 38 of the Extraordinary Session of the 2000 Louisiana Legislature was passed. Act 38 amended, enacted, and repealed portions of the legislation regarding the local personnel evaluation process. While local school districts are expected to maintain the elements of the local personnel evaluation programs currently in place and set forth in this document, Act 38 eliminated the LDE's required monitoring of the local implementation. Monitoring of local personnel evaluation programs is to occur as requested by the SBESE.

This document, *Compliance Handbook 2200 (formerly Bulletin 1525)*, reflects the most recent local personnel evaluation legislation as well as the State-approved guidelines for its implementation. The intent of the *Compliance Handbook 2200 (formerly Bulletin 1525)* is to present a framework or template for local school systems to use in the development or review of their personnel evaluation programs. These programs must fulfill the requirements of the enacted legislation, establish a uniform

system of evaluation, and denote the philosophy and unique characteristics of the local school system.

Philosophy and Purposes of Personnel Evaluation

It is clear that public schools must provide a high quality education that prepares our youth for the demands of the 21st century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this charge, the SBESE has established uniform guidelines for personnel evaluation.

Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving the instruction of and the learning environment for all students.

Supplementing many of the traditional concepts of personnel evaluation, the LDE affirms and supports the belief that evaluation is a humanistic process directed toward the growth and development of all professional personnel who determine the educational programs in the state. This vast human potential will ultimately determine the direction the educational programs will follow. Therefore, it is crucial that every effort possible be expended toward the identification and retention of the most competent and qualified personnel.

The purposes for which personnel evaluation will be used in Louisiana are as follows.

To assure the public that the educational system provides the best opportunities for all children to learn

To assure the public that the most qualified personnel are employed in every position and that effective teaching continues in the classroom

To foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators

To provide support for the professional development of new teachers during their first year of teaching

To provide procedures that are necessary to fulfill the objectives of retaining competent professional employees, to embrace sound educational principles, and to ensure the strengthening of the formal learning environment

To provide procedures for self-evaluation, personal reflection, and peer collaboration

To promote among all school personnel positive interpersonal relationships that will continually increase professional competencies

Implementation of Personnel Evaluation Programs

Activities to include in the annual implementation cycle of Local Personnel Evaluation Programs are presented below.

The LEA's steering committee reviews and refines plans annually for implementing its local personnel evaluation program during the school year.

Local school districts may elect to submit their personnel evaluation plans and/or revisions to the LDE prior to the beginning of the next school year. The LDE receives and reviews, per request, local personnel evaluation plans and/or revisions according to the guidelines presented in *Compliance Handbook 2200 (formerly Bulletin 1525)*.

Each LEA's steering committee implements its refined personnel evaluation program with LEA Board approval and meets annually to monitor its implementation.

Each LEA provides ongoing staff development for teachers and administrators.

Each LEA annually reports the summary results of personnel evaluation to the LDE by July 15.

Framework for LEA Personnel Evaluation Programs

Each local school board has the responsibility of providing a program for the evaluation of certified and other professional personnel employed within the system. Programs should be appropriate and tailored to the particular needs of the school district. Each school board shall have the responsibility to institute programs that address the particular needs of the school district it represents and the guidelines developed by the LDE pursuant to the laws.

Certain requirements relative to the design and development of local personnel evaluation programs have been set forth in an effort to facilitate the construction and implementation process. Organizing and numbering the personnel evaluation program plan in a manner consistent with the proposed format will be helpful to the LEA in determining that all elements of evaluation have been included. A numerical outline will also assist all parties in the review of the plan should such a review be requested or mandated by the SBESE. The remainder of this document presents information relative to the criteria for each of the following sections or elements that should be included in the LEA personnel evaluation program plan.

The list below identifies those sections that are considered essential to an effective personnel evaluation program. In particular, those sections indicated with an asterisk (*) are mandated by state legislation (Appendix D).

Section 1.0	Focus on Educational Improvement
*Section 2.0	Staff Involvement in the Personnel Evaluation Program
Section 3.0	Philosophy and Purposes of Personnel Evaluation
Section 4.0	LEA Personnel Evaluation Glossary
Section 5.0	Impact of Personnel Evaluation
*Section 6.0	Evaluation Process Description
*Section 6.1	Evaluation Criteria
*Section 6.1A	Instructional Personnel
*Section 6.1B	Non-Instructional Certified and Other Professional Personnel
*Section 6.2	Accountability Relationships Register
Section 6.3	Programs Instruments Register
*Section 6.4	Observation Process
*Section 6.5	Developing the Professional Growth Plan
*Section 6.6	Personnel Self-Evaluation
*Section 6.7	The Evaluation Period
*Section 6.8	Intensive Assistance Programs
*Section 6.9	Induction of New Teachers
*Section 6.10	Procedures for Resolving Conflict—Due Process
Section 7.0	Staff Development for Personnel Involved in Evaluation
Section 8.0	Process Instruments

*Section 9.0	Job Descriptions
*Section 10.0	Employment Requirements
Section 11.0	Evaluation Description
Section 12.0	Statement of Assurance

Chapter 2. A Template for Personnel Evaluation Plans

Chapter Two provides a detailed clarification of the components identified as essential elements in the framework for LEA Personnel Evaluation Programs. The template is provided to aid local districts in the development and/or revision of personnel evaluation programs. In particular, those sections indicated with an asterisk (*) are mandated by state legislation (Appendix D).

Section 1.0: Focus on Educational Improvement

The first Section of the local personnel evaluation plan should present an overview of the district's philosophy and educational goals. The LEA personnel evaluation program should be well-grounded in the local school district's educational philosophy and goals. A clear message is provided as to how LEA personnel evaluation will be used to facilitate more effectively the attainment of short and long term goals for educational improvement at the district and school building levels. The overview of the district's philosophy should describe not only the LEA's philosophy and educational goals but also their relationship to the LDE's philosophy and purpose of personnel evaluation. The district's philosophy should also include the relationship of the personnel evaluation program to goals for educational improvement at the district and school building level.

Section 2.0: Staff Involvement in the Personnel Evaluation Program*

The LEA will form a balanced personnel evaluation steering committee that is representative of administrators, instructional, and support services personnel who are selected by the groups they represent. In Section 2.0 of the LEA personnel evaluation plan, the LEA describes the composition and work of the LEA steering committee. This standing committee is responsible for assessing the strengths and weaknesses of the LEA's personnel evaluation program in light of the guidelines set forth in *Compliance Handbook 2200 (formerly Bulletin 1525)*. The steering committee oversees the planning and implementation of any revisions necessary to strengthen the personnel evaluation process. This committee annually evaluates the extent to which the purposes of the local personnel evaluation program are being achieved, and presents any revision of the plan to the LEA Board for its approval.

Section 3.0: Philosophy and Purposes of Personnel Evaluation

Key elements of Section 3.0 of the LEA personnel evaluation plan include a clear description of the philosophy and the purposes for which personnel evaluation is used in the local school district. The philosophy that is presented should be supported by contemporary research and grounded in the belief that all students can learn, that good teaching increases the opportunities for students' learning, and that a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for effective teaching.

One purpose of the LEA personnel evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the most qualified personnel are employed in every position, and that effective teaching continues in the classroom. Additional purposes to include and describe in Section 3.0 are the improvement of the teaching-learning process, the encouragement of creativity and innovation in planning, and the implementation of teaching strategies. Teaching strategies should foster parental involvement, integrate technology into instruction, develop student assessment practices, and employ school improvement practices that are consistent with contemporary research on effective classroom processes.

All of the purposes of the LEA personnel evaluation program should promote the professional growth and development of staff, as well as the support of new teachers.

Section 4.0: LEA Personnel Evaluation Glossary

When developing Section 4.0 of the LEA personnel evaluation plan, the LEA should include a complete listing of all evaluation terms used in the school district. Definitions of each term should be provided to assist with program consistency and standardization. A minimal list of terms and definitions to include in the LEA Personnel Evaluation Glossary is provided in Appendix E of this document. The LEA may include other terms and definitions as necessary.

Section 5.0: Impact of Personnel Evaluation

Section 5.0 of the LEA personnel evaluation plan contains a description of the methods the LEA will use to document the impact of the LEA personnel evaluation process on improving teaching and learning at the school building and district levels. This section includes a plan for annually documenting, celebrating, and sharing the accomplishments of certified and other professional personnel with the school community. The impact of personnel evaluation on the teaching and learning process at the school building and district level may be documented through the inclusion of newsletters, brochures, newspaper articles, and meeting agendas.

Section 6.0: Evaluation of Process Description*

Section 6.0 contains a description of the LEA's evaluation process. The various procedures involved in the evaluation of personnel must reflect the guidelines presented within this Section. All procedures should be written clearly so that all evaluation procedures are readily discernible to all of the individuals involved.

It is important to note that Section 6.0 of *Compliance Handbook 2200 (formerly Bulletin 1525)* incorporates the work of Panel II (Appendix A) as it applies to classroom teachers. The evaluation process for principals must comply with the *Standards for School Principals in Louisiana, 1998* (Appendix C). Furthermore, the LEA's description of the evaluation process should integrate and apply the content that is applicable and appropriate for all certified and other professional personnel. The guidelines to use in developing the description of the evaluation process for all certified and professional personnel follow.

The evaluator's assessment of performance shall be based on the criteria specified in the written job description, including the *Louisiana Components of Effective Teaching* for instructional personnel and the *Standards for School Principals in Louisiana* for building-level administrators.

The evaluator's assessment of the progress the evaluatee has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator shall be documented.

The evaluatee's self-evaluation, as well as progress toward achieving those objectives included in his/her professional growth plan shall be included in evaluation.

Section 6.1: Evaluation Criteria*

In Section 6.1 the LEA defines the criteria used in the evaluation of all certified and other professional personnel. Evaluation criteria for all certified and other professional personnel must be defined clearly in writing in the job description. When designing evaluation instruments, the LEA must include a description of the standards for satisfactory performance for all personnel.

Section 6.1 A: Evaluation of Instructional Personnel*

Section 6.1A outlines the evaluation criteria that the LEA will use when evaluating instructional personnel. It is important that instructional personnel know that they are evaluated on the basis of the criteria defined in their respective job descriptions including the *Louisiana Components of Effective Teaching* (Appendix B) and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all the criteria in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching. The evaluation criteria must conform to the following guidelines.

The evaluation criteria for all instructional personnel shall be stated clearly in writing in the job description.

The *Louisiana Components of Effective Teaching* shall be included in the job descriptions of instructional personnel.

The evaluation criteria shall provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness.

Section 6.1 B: Evaluation of Non-Instructional Certified and Other Professional Personnel*

In this Section, the plan describes the design of appropriate instrumentation that is used in the evaluation of non-instructional certified and other professional personnel. The design of the instrument(s) must provide for the evaluation of standard criteria (the job description for which non-instructional personnel are held responsible) and the specific Professional Growth Plan designed by the evaluatee and the evaluator. The design of the instrument(s) must conform to the guidelines listed below.

The criteria included in the job description shall be evaluated; a description of the standards for satisfactory performance shall be indicated.

The evaluation criteria for all building-level administrators shall include the *Standards for School Principals in Louisiana* (Appendix C).

The criteria for the evaluation of Professional Growth Plans shall be specified.

Section 6.2: Accountability Relationships Register*

Section 6.2. of the LEA personnel evaluation program plan contains an Accountability Relationships Register. The register clearly defines the LEA's accountability relationships for all certified and other professional personnel. It is important that the LEA describe the process by which all accountability relationships are communicated annually so that all certified and other personnel know who is accountable to whom for the purposes of personnel evaluation. An example of an Accountability Relationships Register follows.

Accountability Relationships Register

Evaluatee	Evaluator
Classroom Teachers	Principals
Principals	Supervisors
Supervisors	Superintendent
Note: The Register must contain a list of all categories of evaluatees in the school district. Titles of evaluatees should match those presented on the job descriptions.	Note: The Register must contain a list of the evaluators for each evaluatee in the district. Titles of evaluators should match those presented on the job descriptions.

Section 6.3: Program Instruments Register

Section 6.3 of the LEA personnel evaluation program plan contains a register or listing of all evaluation program instruments. A numerical coding system may be used to identify all of the various evaluation forms. It is extremely helpful to standardize the location and size of the coding that is selected. A sample of a Program Instruments Register is provided below.

Program Instruments Register

Instruments	Codes
Professional Growth Plan Form(s)	PGP 1
Personnel Observation Form(s)	POF 1
Personnel Evaluation Form(s)	PEF 1
Self-Evaluation Form(s)	SEF 1
Intensive Assistance Form(s)	IAF 1

Section 6.4: Observation Process*

The observation procedures for all certified and other professional personnel employed in the district are included in Section 6.4. A detailed narrative of the procedures to be employed is to be included in this subsection. Guidelines that must be addressed and incorporated in the LEA observation procedures are listed below.

The LEA must specify who will conduct the observation(s). The evaluator must conduct at least one of the required number of observation(s).

The LEA must specify how often observations will occur. A minimum of one observation every year for personnel with 0-3 years experience, and one observation every 3 years for personnel with 4+ years experience is required. (Teachers participating in the Louisiana Teacher Assistance and Assessment Program may substitute elements of evaluation according to the LEA plan.)

The evaluator of each teacher or administrator shall conduct a preobservation conference during which the teacher or administrator shall provide the evaluator with relevant information.

The LEA must notify the evaluatee in advance when observation(s) will occur. All types of observations used must be defined in the LEA's plan.

The LEA must specify how the post-observation conference will be conducted.

The LEA must specify how copies of the completed observation forms will be disseminated and filed.

The LEA must specify how intensive assistance, if necessary, will be initiated following the observation procedures.

Instructional Personnel

In addition to the guidelines listed above, the following observation procedures are required for instructional personnel. Classroom observation is a critical aspect of the teacher evaluation process. Guidelines that must be considered and included in the LEA plan when evaluators conduct classroom observations follow.

Periodic classroom observations shall be used to evaluate teaching.

A pre-observation conference shall be held to review the teacher's lesson plan; the review may include information about the use of technology, student assessment practices, and school improvement efforts.

Observations shall be of sufficient duration to see the lesson begin, develop, and culminate.

A post-observation conference shall be held to discuss and analyze the lesson as well as to prepare an observation report.

The primary purpose of the classroom observation shall not be to rate the teacher, but rather, to reach consensus on not only commendations, but also recommendations to strengthen or enhance teaching.

Follow-up observations shall be conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.

Classroom visits may be conducted to monitor progress toward achievement of professional growth plan objectives and to provide support or assistance.

Section 6.5: Developing the Professional Growth Plan*

The process that is used to develop and evaluate the Professional Growth Plan (PGP) is specified in Section 6.5. Periodic evaluation conferences are conducted to discuss and analyze job performance for the purpose of developing longer term PGPs to strengthen or enhance the job performance of all certified and other professional personnel. These PGPs must be developed at the beginning of the evaluation period and be based on a descriptive analysis of job performance rather than on only the results of a checklist or a rating scale. Appropriate timelines must be determined in regard to these procedures. Usually such plans include two to three objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. For successful, experienced personnel, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the evaluatee's progress, as well as observable evaluation criteria that the evaluatee and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria should show clearly how achievement of the objective will impact the quality of the job performance.

The LEA process for developing and reviewing professional growth plans must conform to the guidelines listed below.

All longer term (one, two, or three year) PGPs must be reviewed and updated annually.

The PGP shall be developed at the beginning of the evaluation period. Appropriate timelines must be determined in regard to these procedures and such timelines must be given in the narrative of this subsection. The LEA must develop forms for the PGP.

PGPs shall be based on objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. (Note: Successful teachers or other professional personnel shall not be mandated to participate in any one specific growth activity.)

A plan of action and evaluation criteria shall be specified for each objective. During the annual review, documentation must be presented to support completion of the professional growth plan activities.

For successful, experienced personnel, objectives shall be used to explore new, untried, innovative ideas or projects.

The evaluator(s) and evaluatee(s) must sign and date each completed PGP form after it has been developed and again after it has been reviewed. All forms must be signed and dated prior to dissemination and filing.

It is recommended that the evaluator and the evaluatee maintain a copy of all completed forms. A copy of the PGP must be filed in the single official file at the central office.

Section 6.6: Personnel Self-Evaluation*

In this section, the LEA delineates its personnel self-evaluation process. The LEA must encourage all certified and other professional personnel to assume significant responsibility for the evaluation of their performances. Ample opportunities should be provided throughout the personnel evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports that certified and other professional personnel submit as part of the personnel evaluation process. Training should be provided for all certified and other professional personnel in techniques for reflection and self-evaluation. For instructional personnel, additional staff development opportunities should be provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

In developing Section 6.6, the LEA plan for self-evaluation must address the following components.

A plan for ensuring that certified and other professional personnel are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration should be included.

Self-evaluation must be included as part of the overall annual evaluation process for all certified and professional personnel.

The plan should specify how the self-evaluation will be documented and how copies will be disseminated and filed. Documentation that self-evaluations have been completed should be placed in the evaluatee's single official file.

Section 6.7: The Evaluation Period*

The evaluation of staff may vary depending on their experience and proficiency. The evaluation process for new teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for successful, experienced certified and other professional personnel tends to focus on professional growth and school improvement. New teachers and those new to the school district or new to a position will be evaluated each year through observations for the first three years in that position. (See Section 11.0, Evaluation Exemption Provisions.) More experienced certified and other professional personnel will be evaluated on the basis of observations at least once every three years. Successful, experienced certified and other professional personnel may be evaluated on a multi-year cycle that encourages staff to pursue longer-term professional growth and school improvement initiatives. An evaluation cycle may be implemented as follows.

Year One

Certified and other professional personnel are evaluated formally based on observations of the criteria listed on job descriptions, professional growth plans, and self-evaluations.

Year Two - Three

Certified and other professional personnel are evaluated on the basis of progress toward those objectives in their professional growth plan and self-evaluations. It is imperative that all certified and other professional personnel clearly understand the procedures and timelines that will be used to evaluate their performances.

The LEA must incorporate the guidelines listed below in the description of its evaluation process and time period.

The process must specify the number of evaluators per evaluatee.

The process must include how the evaluatee will be informed of the criteria of expected performance.

Provision for the annual written evaluation of all certified and other professional personnel must be included in the process.

The evaluation process should be tailored to the levels of experience and proficiency of the certified and other professional personnel.

Successful, certified and other professional personnel who are evaluated on a multi-year cycle should be encouraged to pursue more meaningful, longer-term professional growth and school improvement initiatives.

The plan must specify the procedures to be used in conducting post-evaluation conferences.

The plan must include a process for the dissemination and filing of completed evaluation forms. One copy shall be maintained in the evaluatee's single official file at the central office.

The LDE recommends that personnel who are determined, through the evaluation process, to be in need of intensive assistance and/or reinforcement, be evaluated until such performance(s) is/are corrected or dismissal is recommended. Procedural due process is mandatory in the personnel evaluation programs, and a breach in this matter will be considered serious.

Section 6.8: Intensive Assistance Programs*

This program must be designed for use by all evaluators when it becomes necessary to prepare an Intensive Assistance Program for an evaluatee who has been determined to be in need of certain assistance. (*The Intensive*

Assistance Program does not apply to teachers in the Louisiana Teacher Assistance and Assessment Program.)

If it is determined through the evaluation process that an evaluatee does not satisfactorily meet the local school district's standards of performance, then that evaluatee is placed in an intensive assistance program. When the evaluatee is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the evaluatee. This plan specifies (a) what the evaluatee must do to strengthen his/her performance, what objective(s) must be accomplished, and what level(s) of performance is/are expected; (b) what assistance/support shall be provided by the school district; (c) a timeline (not to exceed two years) for achieving the objectives and the procedures for monitoring the evaluatee's progress including observations and conferences; and (d) the action that will be taken if improvement is not demonstrated. Evaluatees must continue to be evaluated until the need for intensive assistance no longer exists.

LEAs must delineate the procedures to be followed if the evaluatee fails to improve within the timelines of the intensive assistance program. R.S. 17:3902 mandates that, if an evaluatee completes the intensive assistance program and still performs unsatisfactorily on a formal evaluation, the local board shall initiate termination proceedings within six months following such unsatisfactory performance.

In this section of the LEA evaluation program description, the LEA delineates its process for intensive assistance. The LEA intensive assistance process must conform to the following guidelines.

An intensive assistance program shall be provided for evaluatees who do not meet the local school district's standards of satisfactory performance.

Any evaluatee placed in an intensive assistance program shall be informed in writing of the reason(s) for this placement.

An intensive assistance plan shall be developed for any evaluatee placed in such a program.

The local school district shall document the professional development support that is necessary to enable the certified and other professional personnel to meet the objectives of his/her plan.

The local school district shall take appropriate action in accordance with legislative, SBESE, and local school board mandates if satisfactory improvement is not demonstrated.

The intensive assistance plan must be developed collaboratively by the evaluator and the evaluatee and must contain specific information.

a. What the evaluatee needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance

b. An explanation of the assistance/support/resource to be provided by the school district

c. The evaluatee's and evaluator(s)' names and position titles

d. A space for indicating the date that the assistance program shall begin

e. The date when the assistance program shall be completed

f. The evaluator's and evaluatee's signatures and date lines (Signatures and dates must be affixed at the time the

assistance is prescribed and again after follow-up comments are completed.)

g. The timeline for achieving the objective and procedures for monitoring the evaluatee's progress (not to exceed two years)

h. An explanation of the provisions for multiple opportunities for the evaluatee to improve (The intensive assistance programs must be designed in such a manner as to provide the evaluatees with more than one opportunity to improve.)

i. The action that will be taken if improvement is not demonstrated

The intensive assistance form must be designed in a manner that would provide for the designation of the level of assistance and a description of performance.

Completed intensive assistance plans and all supporting documents—such as observations, correspondence, and any other information pertinent to the intensive assistance process—must be filed in the evaluatee's single official file at the central office.

Section 6.9: Induction of New Teachers*

In this section, the LEA describes its process for coordinating the induction of new teachers into the school system. Mentor support should be provided through the Louisiana Teacher Assistance and Assessment Program for the induction and professional growth of new teachers. A concerted effort should be made to insure that new teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the LEA personnel evaluation is coordinated with the State's assistance and assessment program designed for any new teacher with a provisional or temporary teaching certificate.

The LEA's induction process must consider that mentor support is provided for the induction of new teachers, that the *Louisiana Components of Effective Teaching* is a focus for the evaluation of new teachers, and that all assistance made available through the LEA personnel evaluation process is coordinated with the State's assistance and assessment program for new teachers.

Section 6.10: Procedures for Resolving Conflict - Due Process*

This section of the LEA personnel evaluation program must include the procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. All due process mandates in R.S. 17:3883(7), R.S. 17:3884, and R.S. 17:3902 must be included in the evaluation process.

The LEA must address the following components of due process.

The evaluator shall provide the evaluatee with a copy of the evaluation results within 15 working days after the completion of the evaluation. (The LDE strongly recommends that this same procedure be employed with regard to observation reports.)

A post-evaluation conference must be held following the evaluation and prior to the end of the school year in order that the results of the evaluation can be discussed. (This discussion should concern the strengths and weaknesses of the evaluatee.)

The evaluation program shall include procedures for resolving conflict in a fair, efficient, effective, and professional manner.

The evaluatee may file his/her own written response to the evaluation. (A self-evaluation form may not serve as an evaluatee's written response.)

The evaluatee may file a written response to the evaluation that will become a permanent attachment to the evaluatee's single official personnel file. The response may be a signed statement clarifying or rebutting the issue in question. (The LDE recommends that a timeline for the written response be given.)

When evaluatees are not performing satisfactorily, they must be informed in writing.

The evaluatee has the right to receive proof, by documentation, of any item contained in the evaluation that the evaluatee believes to be inaccurate, invalid, or misrepresented. If documentation does not exist, the item in question must be amended or removed from the evaluation.

The evaluatee must be provided with ample assistance to improve performance.

The evaluatee may request that an evaluation be conducted by another source. (The LDE recommends that the LEA name the source from which another evaluator may be selected.)

The confidentiality of evaluation results must be maintained as prescribed by law. (The LDE strongly recommends that copies of all evaluation documents be maintained in the files of both the evaluator and evaluatee; however, these documents must be maintained in the evaluatee's single official file.) The school board in each school district must take official action in regard to naming the individuals who shall be authorized to enter the official personnel files. The positions of these individuals must be included.

Personnel evaluation grievance procedures must be established to follow the proper lines of authority.

Section 7.0: Staff Development for Personnel Involved in Evaluation

In this section of the LEA personnel evaluation program description, the LEA delineates its plan for staff development. The school district provides training on a continuing basis for all staff involved in the evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, and classroom teachers). District staff development training is supported by the LDE. When developing the LEA staff development plan, it is recommended that the training concentrate on fostering the elements listed below.

A positive, constructive attitude toward teacher evaluation

A knowledge of State laws and LEA policies governing the teacher evaluation process and associated due process procedures

An understanding of the Louisiana Components of Effective Teaching

An understanding of the Standards for School Principals in Louisiana

An understanding of the LEA's personnel evaluation program, including the philosophy and purposes, criteria, and procedures

The LEA's plan may include a description of additional training of evaluators. Evaluator training should focus on developing the skills needed to diagnose, strengthen, and/or

enhance teaching effectively. It is recommended that the following skill areas be included in the plan and description of the LEA training for evaluators.

Data collection skills necessary to document a teacher's performance accurately

Data analysis skills necessary to make accurate judgments about a teacher's performance

Conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance

Skills in developing and facilitating meaningful professional growth plans that strengthen or enhance teaching effectiveness

Skills in writing effective evaluation reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom

Section 8.0: Process Instruments

This Section contains a copy of each instrument that is currently used in the LEA's evaluation process. (Note: Included instruments should be listed in the Program Instrument Register in Section 6.3.) Suggestions that should be included in the development of the required evaluation instruments are included in the chart on the following page.

Instrument	Description
<i>Professional Growth Plan Form</i>	<ul style="list-style-type: none"> Developed for all certified and other professional personnel Includes space for objectives, as well as a plan of action and evaluation criteria for each objective Includes signature and date lines to document the initiation/ development of the plan and the annual review/update <p>Note: Multi-year PGP forms must include space for the annual review dates and signature.</p>
<i>Observation Form</i>	<ul style="list-style-type: none"> Developed to complement the evaluation form <p>Note: For instructional personnel, it is not acceptable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description.</p>
<i>Evaluation Form</i>	<ul style="list-style-type: none"> Designed for use in the evaluation process <p>Note: A checklist or rating scale is not acceptable for the evaluation of instructional personnel; rather, space must be provided for a narrative description of the evaluator's commendations and recommendations for the evaluatee.</p>
<i>Self-Evaluation Form</i>	Developed for all personnel to use in assessing their own performances
<i>Intensive Assistance Form</i>	<ul style="list-style-type: none"> Developed for use in the evaluation process Provides space for evaluators to delineate what the evaluatee needs to do to strengthen his/her performance Describes the assistance/support provided by the school district Specifies the timelines and procedures for evaluating the evaluatee's progress

Section 9.0: Job Descriptions*

The LEA Personnel Evaluation Plan must contain a copy of the job descriptions currently in use in the LEA. The local board shall establish a job description for every category of teacher and administrator pursuant to its evaluation plan. The LEA must also provide copies of job descriptions to all certified and professional personnel prior to employment. The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed.

Personnel Category	Position or Title
	1. Superintendent 2. Assistant Superintendent
	3. Director 4. Supervisor
<i>Administration</i>	5. Coordinator 6. Principal 7. Assistant Principal
	8. Any employee whose position does not require certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning
	9. Any employee whose position requires certification, but whose title is not given in this list
	Any employee who holds a major management position, but who is not required to have a college degree or certification
<i>Instructional Personnel</i>	1. Teachers of Regular and Special Education students Special Projects Teachers
	1. Guidance Counselors 2. Librarians 3. Therapists
<i>Support Services</i>	4. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning
	5. Any employee whose position requires certification, but whose title is not given in this list. 6. Any employee who holds a major management position, but who is not required to have a college degree or certification

The local board has the responsibility of developing job descriptions for the various positions in the LEA in accordance with its evaluation program. The following components must be included in each job description developed by the LEA.

Position Title

Position Qualifications must be at least the minimum requirements as stated in *LDE Bulletin 746: Louisiana Standards for State Certification of School Personnel*. The qualifications must be established for the position, rather than for the evaluatee.

Title of the person to whom the evaluatee reports

Title of the person whom the evaluator supervises

Performance responsibilities of the evaluatee (Refer to * below.)

A space for the evaluatee's signature and date (Note: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.)

All certified and other personnel shall be provided with their job descriptions prior to the beginning of their employment in the school system in their position and each time their job description is revised.

*Job descriptions for instructional personnel must include the *Louisiana Components of Effective Teaching*; job descriptions for building-level administrators must include

the *Standards for School Principals in Louisiana* as part of the performance responsibilities.

Section 10.0: Employment Requirements*

Section 10.0 of the personnel evaluation plan should describe the LEA's policy for providing evaluation results to any school board wishing to hire a person evaluated by the LEA. In the development of this policy, the LEA must adhere to the legislation governing employment requirements. R.S. 17:3884(D) requires that any local board wishing to hire a person who has been evaluated pursuant to Act I of 1994 and Act 38 of 2000, whether that person is already employed by that school system or not, shall request such person's assessment and/or evaluation results as part of the application process. The board to which application is being made shall inform the applicant that, as part of the mandated process, the applicant's assessment and/or evaluation results shall be requested from the previous employer. The applicant shall be given the opportunity to apply, review the information received, and provide any response or information the applicant deems appropriate.

The LEA must adhere to the following guidelines when developing Section 10.0.

The school board shall request the assessment and/or evaluation results of any person it wishes to hire.

The school board shall provide other school boards with assessment and/or evaluation results of persons that the other school boards wish to hire.

The evaluatee shall be given the opportunity to review those assessment and/or evaluation results and provide any response or information that the evaluatee deems appropriate.

Section 11.0: Evaluation Exemption

In this section, the LEA describes its procedures for including/exempting from Local Evaluation those persons assessed under the statewide assistance and assessment program during the year(s) in which they are assessed. Key points to consider in the development of the LEA evaluation exemption policy follow.

Teachers participating in the Louisiana Teacher Assistance and Assessment Program may be exempt from all or part of the local evaluation accountability required by law during the year(s) that they are assessed.

An exemption from local personnel accountability shall not interfere with the right and duty of the appropriate LEA personnel to observe and evaluate the teachers in the performance of their duties.

LEAs shall maintain the right to make employment decisions.

Section 12.0: Statement of Assurance

This section of the plan includes a statement signed by the superintendent of schools and by the president of the school board assuring that the LEA personnel evaluation program has been revised and approved by the school board that governs the affairs of the LEA. The statement of assurance includes a statement that the LEA personnel evaluation program shall be implemented as written. The original Statement of Assurance must be signed and dated by the LEA Superintendent of Schools and by the President of the LEA School Board; the LDE requests that the LEA submit the statement of assurance prior to the opening of each school year.

Chapter 3. Reporting and Monitoring

Annual Summary Reporting Format

Louisiana Register Vol. 27, No. 04 April 20, 2001

Each LEA will submit an annual personnel evaluation report to the Louisiana Department of Education. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the Louisiana Department of Education, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEAs on forms provided by the LDE include, but are not limited to, the following items.

The types of degrees obtained from accredited institutions and the number of certified personnel holding each type of degree

The years of experience of teachers, administrators, central office staff (years in position)

The number of teachers teaching in each area of certification, as well as the number of administrators who are certified for their specific tasks

The total number of teachers employed in the system, including T-certified personnel and personnel given an emergency permit, an internship, or SBESE waiver

The total number of administrators, by categories (principals, assistant principals, certified central office personnel), employed in the system

The number of certified and other professional personnel evaluated by categories (teachers, principals, etc.) under previous systems as opposed to the number evaluated under the current evaluation programs based on written, documented evaluations from the preceding year

The number of certified and other professional personnel, by categories, who were evaluated as performing satisfactorily

The number of certified and other professional personnel, by categories, who were evaluated as performing unsatisfactorily

The number of certified and other professional personnel, by categories, who resigned because of less than satisfactory evaluations or for other reasons related to job performance

The number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (Include the reasons for termination.)

The number of evaluations, by categories, used to evaluate certified and other professional personnel during the reporting period (Distinguish between the number of evaluations performed for personnel in position 0-3 years as opposed to personnel in position 4 or more years.)

The number of certified personnel, by categories, who improved (from unsatisfactory to satisfactory) as a result of the evaluation process (Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.)

The number of formal grievances filed because of unsatisfactory performance ratings or disagreement with evaluation results

The number of formal hearings held because of unsatisfactory performance or disagreement with evaluation results

The number of court cases held because of unsatisfactory job performance (the number reinstated and basic reasons for reinstatement of personnel)

The number of evaluatees who received intensive assistance.

Technical Assistance Program

The LDE strives to provide assistance relative to particular problems that LEAs might encounter in the implementation of their personnel evaluation program. Upon the request of a school district, the LDE will provide professional advice and assistance in all matters concerned with personnel evaluation. This assistance and advice may be provided through contacts with local systems by LDE personnel or by contacts with the LDE by the LEA's personnel evaluation authorities.

Monitoring LEA Personnel Evaluation Programs

The Legislative mandate through R.S. 17:3883 (B)(5) requires the LDE to monitor programs of educational accountability when requested by the SBESE as deemed necessary. To fulfill the requirements of the legislation as it relates to the component of LEA personnel evaluation, the LDE is mandated to develop and implement guidelines when the monitoring of an LEA program is requested by the State Board of Elementary and Secondary Education.

To assist in the operation of LEA personnel evaluation programs as formulated by the LEAs and submitted to the LDE, the LDE established the methodology to be used when monitoring is requested. The process that the LDE will use is described in the narrative below.

Purpose

The purpose of personnel evaluation monitoring is to determine whether the LEAs evaluation has been implemented, to what extent it has been implemented, and whether it complies with the provisions of the shared accountability legislation. The monitoring is designed to attest to the assurance that the policies and procedures are in actuality the processes being implemented within the LEA. Monitoring will specifically observe the process to ascertain the extent to which the LEA is, or is not, following through on the process designated in their plan. The LDE has established the following goals and objectives for the monitoring of LEA personnel evaluation.

1. Goals

a. To verify the implementation of R.S. 17:3883 B (2) and R.S. 17:3883 B (5)

b. To determine whether such programs have been implemented

c. To determine to what extent they have been implemented

2. Objectives

a. To implement R.S. 17:3883 B(2) and R.S. 17:3883 (B), as requested

b. To collect and compile data

c. To document and analyze the implementation of the personnel evaluation plan

d. To disseminate data to proper authorities at the conclusion of monitoring

e. To maintain appropriate records/files of the monitoring process

f. To review and revise the monitoring guidelines as needed or requested by the SBESE

Procedures

Written notification will be provided to the LEAs prior to monitoring. The LDE team will function as a unit to monitor the LEA personnel evaluation program. Data will be

collected, local personnel evaluation plans and evaluation records will be reviewed, and interviews may be completed as means of documentation. After monitoring has been completed, the LDE Team will submit a report to the appropriate authorities, which will include, but not necessarily be limited to, the State Superintendent of Education, the State Board of Elementary and Secondary Education, and the Superintendent of the LEA.

The LDE Team shall perform the following tasks when monitoring is deemed necessary.

Notify the LEA superintendent and contact person and secure necessary preliminary documentation (e.g. the local personnel evaluation plan).

Prepare a pre-monitoring report.

Inform the superintendent or designee and other appropriate personnel of the monitoring method and timelines to be observed when monitoring is being conducted.

Visit the LEA; collect data; compile the data by one or more of the means listed below:

a. A pre-monitoring conference (LDE Team)

b. A review of the pre-monitoring report with the contact person and/or other appropriate personnel

c. A determination by the LDE Team of the compliance or failure to comply through on-site visits, completion of interviews, and/or viewing records

Review the LEA's personnel evaluation program; check the areas of the LEA's personnel evaluation programs including the following elements.

a. The method of dissemination for the personnel evaluation program plans

b. The method of documenting the achievement of the purposes of the LEA personnel evaluation program

c. The accuracy of the evaluators/observers listed in Section 6.2 - Accountability Relationships

d. The assurance that all certified and other professional personnel are included in the evaluation process

e. The development of professional growth plans by all of the evaluatees

f. The implementation of stated observation procedures

g. The implementation of stated evaluation procedures

h. The verification of the evaluatees' knowledge of evaluation criteria

i. The verification of the dissemination of job descriptions

j. The verification of necessary intensive assistance schedules

Conduct a post-monitoring conference; conduct a "close-out" session with the LEA Superintendent, contact person, and/or appropriate personnel.

Inform the LEA in writing of compliance, the areas of noncompliance, and of recommendations.

Provide assistance to the LEA in developing a plan of action to strengthen any noncompliance areas of the LEA's plan.

Plan for and conduct follow-up monitoring as necessary to determine implementation status of the plan of action.

Notify the SBESE of the LEA's compliance status.

Make recommendations to the SBESE.

Appendix A
Panel II Report: Toward Strengthening and
Standardizing Local School Districts' Teacher Evaluation
ProgramsX1992
Introduction

Teaching is thinking,
thinking about what students need to know and be able
to do,
thinking about what the teacher can do to foster such
learning,
thinking about how successful the teacher has been in
achieving the desired learning outcomes, and
thinking about how the teacher should teach that lesson
next time.

Teacher evaluation focuses on what students know and are
able to do and what the teacher can do to strengthen or
enhance the level of learning in the classroom. Teacher
evaluation is meaningful, in that it deals with aspects of
instruction that make sense to both the teacher and evaluator.
Teacher evaluation is productive and results in
recommendations that improve the quality of the teaching-
learning process. This conception of teacher evaluation
guided the panel as it pursued its charge.

The panel's conception of teacher evaluation is consistent
with the definition of evaluation found within *Bulletin 1525:
Personnel Evaluation Accountability, A Guide for
Implementation*, page 7, #10:

Evaluation--the process of making considered judgments
concerning the professional accomplishments and
competencies of a certified employee, as well as other
professional personnel, based on a broad knowledge of the
area of performance involved, the characteristics of the
situation of the individual being evaluated, and the specific
standards of performance pre-established for the position.

Distinctions between Assessment and Evaluation

The panel realized that it was important to make some
distinctions between assessment and evaluation. The purpose
of the state assessment program is to determine whether a
teacher can teach effectively, whereas the local evaluation
program determines whether a teacher does teach effectively.
The Louisiana Department of Education (LDE) is
responsible for the state assessment program while the local
school districts are responsible for the local teacher
evaluation programs. *The Louisiana Components of Effective
Teaching* is utilized as performance criteria in both
programs. Panel II's responsibility was to establish
guidelines for strengthening and standardizing local teacher
evaluation. A standardized performance-based instrument for
state assessment, the Louisiana Teacher Appraisal
Instrument, will be developed by Panel IV.

The Panel's Charge

The panel was charged to make recommendations for
strengthening and standardizing the teacher evaluation
programs employed by school districts across the state. The
panel operated under the assumption that local teacher
evaluation programs would be standardized if they were a)
grounded in the same statement of philosophy and purposes,
b) used common criteria to evaluate teachers, and c)
included procedures that complied with uniform guidelines
for teacher evaluation programs. Furthermore, the panel
believed that teacher evaluation programs would be
strengthened, if such philosophy and purposes, criteria, and

guidelines reflected the best current thinking and research
about effective teacher evaluation practices. Thus, panel
members considered the current literature on teacher
evaluation and then developed a statement of philosophy and
purposes for teacher evaluation in Louisiana, as well as
uniform guidelines for local teacher evaluation programs
across the state. These guidelines include reference to
common criteria that would be used to evaluate teachers, the
Louisiana Components of Effective Teaching. The Louisiana
Components of Effective Teaching were developed by
another panel.

In addition to developing a common set of state guidelines
for teacher evaluation programs, the panel developed criteria
for each guideline that can be used to determine whether a
local school district's teacher evaluation program complies
with that guideline. The panel recommends that these
guidelines be used by the Louisiana Department of
Education to strengthen and to standardize teacher
evaluation programs at the local school district level
according to the following timeline:

1992-93 - All school districts will review their current
teacher evaluation programs in light of the new state
guidelines and will develop plans to strengthen their
programs if necessary.

1993-94 - All school districts will implement the new
practices needed to strengthen their teaching evaluation
programs,

1994-95 - All school districts will continue to implement
their new teacher evaluation practices and make refinements
if necessary.

As local school districts proceed to review and to
strengthen their current teacher evaluation programs, the
panel recommends that the Louisiana Department of
Education provide them with resources that can assist them
in this process. Such resources could include information
about teacher evaluation staff development opportunities
available at the state and regional levels, examples of some
more effective teacher evaluation practices being
implemented in Louisiana school districts, and readings such
as *A Handbook for Teacher Evaluation and Professional
Growth in More Productive Schools*¹, among others.

The statement of philosophy and purposes of teacher
evaluation, as well as the guidelines for teacher evaluation
programs developed by this panel are presented in the
subsequent sections of this report. It is important to note that
the panel viewed teacher evaluation in the generic sense, a
process for the evaluation of all certified professional staff
(i.e., classroom teachers, special services staff, and building,
as well as district level administrators).

Philosophy and Purposes of Teacher Evaluation

As we move through the decade of the nineties, it is clear
that public schools must provide a high quality education
that prepares our youth for the demands of the 21st century.
In order to meet these challenges, educators must focus on
providing the best educational opportunities for all children.
Recognizing this, the State Board of Elementary and
Secondary Education has established uniform guidelines for
personnel evaluation.

Personnel evaluation is directed toward the continued
enhancement of learning through a process of encouraging
professional growth for all educators by establishing a
system of professional accountability. It is an ongoing,

shared process aimed at improving instruction and the learning environment for all students.

The purposes for which teacher evaluation will be used in Louisiana are as follows:

To assure the public that the educational system is providing the best opportunities for all children to learn, the best qualified personnel are employed in every position, and effective teaching continues in the classroom;

To foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators; and

To provide support for the professional development of new teachers during their period of internship.

Guidelines for Teacher Evaluation Programs

Guidelines for local school district teacher evaluation programs in Louisiana are presented in the subsequent sections of this report. Compliance criteria are provided for each guideline.

Yes - indicates that the school district meets the criterion.

No - indicates that the school district does not meet the criterion.

Partial - indicates that the school district has a plan for meeting the criterion.

A school district's teacher evaluation program is approved with respect to a particular guideline if it meets all criteria for that guideline. The program receives conditional approval if it meets some criteria and has a plan for meeting all the others. Disapproval results when the school district does not meet all the criteria for a particular guideline and has no plan to rectify this situation.

1. Focus on Educational Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used more effectively to facilitate the attainment of short and long term goals for educational improvement at the district and school building levels.

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation.	Y	N	P
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Teacher evaluation is related to goals for educational improvement at the district level.	Y	N	P
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Teacher evaluation is related to goals for educational improvement at the school building level.	Y	N	P
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Overall assessment: () Approval () Conditional approval () Disapproval

2. Staff Involvement in the Teacher Evaluation Program

A teacher evaluation steering committee is formed at the local school district level. Representative of administrators and classroom teachers, the committee is selected by each of these groups. This standing committee is responsible for assessing the strengths and weaknesses of the school district's teacher evaluation program in light of the Louisiana Guidelines for Teacher Evaluation Programs. Furthermore, it will oversee the planning and implementation of any revisions necessary to strengthen the teacher evaluation process. Periodically, at least every three years, this committee will evaluate the extent to which the purposes of the local teacher evaluation program are being achieved.

Compliance criteria:

A representative teacher evaluation steering committee has been formed to review the current local teacher evaluation program in light of new state guidelines.	Y	N	P
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This committee has balanced representation of both teachers and administrators.	Y	N	P
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The committee has developed a plan for strengthening the current teacher evaluation process where necessary.	Y	N	P
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The committee has developed a plan for evaluating whether the purposes of the teacher evaluation program are being achieved.	Y	N	P
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Overall assessment: () Approval () Conditional approval () Disapproval

3. Philosophy and Purposes of Teacher Evaluation

The philosophy and purposes for which teacher evaluation is used in the local school district are stated clearly in writing. This philosophy is grounded in the beliefs that all students can learn; good teaching increases the chances of students learning; and a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for good teaching.

A purpose of the teacher evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the best qualified personnel are employed in every position, and that effective teaching continues in the classroom.

Another purpose of the teacher evaluation program is the improvement of the teaching/learning process. This purpose includes the encouragement of creativity and innovation in the planning and implementation of teaching strategies that are consistent with the contemporary research on effective classroom processes. Teacher evaluation includes promoting the professional growth and development of staff, as well as providing support for new teachers during their period of internship.

In summary, teacher evaluation is pursued with the spirit that it is a process for making good teachers better, rather than one that is directed toward finding fault with teaching.

Compliance criteria:

The philosophy and purposes of the local teacher evaluation program are stated clearly in writing.	Y	N	P
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The philosophy and purposes of the local teacher evaluation program have been explained to and discussed with teachers.	Y	N	P
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The purposes provide the public assurances that only effective teachers continue to be employed by the school district.	Y	N	P
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The purposes reflect sound principles of effective teaching and learning that are supported by contemporary research.	Y	N	P
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The purposes support the improvement of the teaching-learning process, as well as the continued professional growth and development of instructional personnel.	Y	N	P
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Overall assessment: () Approval () Conditional approval () Disapproval

4. Accountability Relationships

Accountability relationships are defined clearly in writing. These relationships are communicated effectively so all professional staff know who is accountable to whom for the purposes of teacher evaluation.

Compliance criteria:

Accountability relationships are defined clearly in writing.	Y	N	P
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Teachers are informed each year as to who is responsible for their evaluation.	Y	N	P
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Overall assessment: () Approval () Conditional approval () Disapproval

5. Evaluation Criteria

The evaluation criteria for each professional staff position (i.e., teachers, principals, librarians, etc.) are stated clearly in writing in the job description. Classroom teachers are evaluated on the basis of job descriptions that include the *Louisiana Components of Effective Teaching* and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching.

Compliance criteria:

The evaluation criteria for each professional staff position are stated clearly in writing in the job description.	Y	N	P
The <i>Louisiana Components of Effective Teaching</i> are included in the job descriptions of instructional personnel.	Y	N	P
The evaluation criteria provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

6. The Classroom Observation Process

Classroom observation is a critical aspect of the teacher evaluation process. The evaluator conducts observations that are of sufficient duration to see the lesson begin, develop, and culminate. A pre-observation conference is conducted to review the teacher's lesson plan. A post-observation conference is arranged to discuss and analyze the lesson, as well as to prepare an observation report. The primary purpose of this report is not to rate the teacher on a scale or checklist, but rather, to reach consensus on commendations, as well as recommendations for strengthening or enhancing teaching. Follow-up classroom visits and observations are conducted to determine what impact these recommendations have had on improving the quality of the teaching-learning process in the teacher's classroom.

Compliance criteria:

Teaching is evaluated through periodic classroom Observations.	Y	N	P
Observations are of sufficient duration to see the lesson begin, develop, and culminate.	Y	N	P
The primary purpose of the classroom observation is not to rate the teacher, but rather, to reach consensus on commendations, as well as to make recommendations to strengthen or enhance teaching.	Y	N	P
Follow-up classroom visits and observations are conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

7. Developing the Professional Growth Plan

Periodic evaluation conferences are conducted to discuss and to analyze teaching for the purpose of developing longer term (1-2 year) professional growth plans to strengthen or enhance the teaching-learning process in the classroom.

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These professional growth plans are based on a descriptive analysis of teaching rather than on only the results of a checklist or rating scale. Usually such plans include two to three objectives developed collaboratively by the teacher and evaluator. For successful, experienced teachers, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the teacher's progress, as well as observable evaluation criteria that the teacher and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria show clearly how achievement of the objective will impact the quality of the teaching-learning process in the classroom.

Compliance criteria:

Teachers develop longer-term professional growth plans to strengthen or enhance the teaching-learning process.	Y	N	P
Professional growth plans are based on objectives developed collaboratively by the teacher and evaluator.	Y	N	P
A plan of action and evaluation criteria are specified for each objective.	Y	N	P
For successful, experienced teachers, objectives are used to explore new, untried, innovative ideas or projects.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

8. Teacher Self- Evaluation

Teachers are encouraged to assume significant responsibility for the evaluation of their performance. Ample opportunities are provided throughout the teacher evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports which teachers submit as part of the teacher evaluation process. Training is provided for all teachers in techniques for reflection and self-evaluation. Additional staff development opportunities are provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

Compliance criteria:

Training is provided for teachers in techniques for personal reflection, self-evaluation, and peer collaboration.	Y	N	P
Teachers are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration.	Y	N	P
Teachers include a self-evaluation as part of the overall evaluation of their teaching.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

9. The Evaluation Period

All professional staff are evaluated in writing each year. How professional staff are evaluated may vary depending on their experience and proficiency in the classroom. The evaluation process for intern teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for tenured, experienced teachers tends to focus on professional growth and school improvement.

Beginning teachers and those new to the school district will be evaluated each year through classroom observations for their first three years of employment. More experienced teachers will be evaluated on the basis of classroom observations at least once every three years. Successful, tenured teachers may be evaluated on a multi-year cycle that encourages staff to pursue longer term professional growth and school improvement initiatives: for example, a three-year cycle may be implemented as follows:

Year 1 - Teacher is evaluated formally on the basis of classroom observation

Years 2-3 - Teacher is evaluated on the basis of progress toward those objectives included in his/her professional growth plan. Periodic classroom visits and/or observations may be conducted as necessary at the discretion of the evaluator or at the request of the teacher.

It is imperative that professional staff clearly understand the procedures and timelines that will be used to evaluate their performance.

Compliance criteria:

All professional staff are evaluated in writing each year.	Y	N	P
The evaluation process is tailored to the levels of experience and classroom proficiency of the teacher.	Y	N	P
Successful, tenured teachers are evaluated on a multi-year cycle that encourages staff to pursue more meaningful, longer term professional growth and school improvement initiatives.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

10. Information Included in the Teacher Evaluation Process

The evaluation of teaching is based on one or a combination of the following:

Evaluator's assessment of teaching based on the criteria specified in the teacher's written job description, including the Louisiana Components of Effective Teaching,

Evaluator's assessment of the progress the teacher has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator, and

Teacher's self-evaluation of teaching as well as progress toward achieving those objectives included in his/her professional growth plan.

Compliance criteria:

Evaluator's assessment of teaching is based on the job description, including the Louisiana Components of Effective Teaching.	Y	N	P
Evaluator's assessment of teaching is based on progress toward the objectives included in the teacher's professional growth plan.	Y	N	P
Evaluation includes the teacher's self-evaluation of teaching, as well as his/her progress toward objectives included in the professional growth plan.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

11. Coordination with the Induction of Intern Teachers

Mentor support is provided through the teacher evaluation process for the induction and professional growth of intern teachers. A concerted effort is made to insure that intern teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the local teacher evaluation process is

coordinated with the state support and assessment program for any beginning teacher with a Provisional or Temporary Teaching Certificate.

Compliance criteria:

Mentor support is provided for the induction of intern teachers.	Y	N	P
The Louisiana Components of Effective Teaching is a focus for the evaluation of beginning teachers.	Y	N	P
Assistance made available through the local teacher evaluation process is coordinated with the state support and assessment program for beginning teachers.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

12. Intensive Assistance for Experienced Teachers

If it is determined through the teacher evaluation process that an experienced teacher does not satisfactorily meet the local school district's standards of performance, then that teacher is placed in an intensive assistance program. When the teacher is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the teacher.

The plan specifies

- what the teacher needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;
- what assistance/support is provided by the school district;
- a timeline for achieving the objectives and the procedures for monitoring the teacher's progress including classroom observations and conferences; and
- the action that will be taken if improvement is not demonstrated.

Experienced teachers can assume that they are performing satisfactorily unless they have been placed in an intensive assistance program.

Compliance criteria:

An intensive assistance program is provided for teachers who do not meet the local district's standards of satisfactory performance.	Y	N	P
Any teacher placed in an intensive assistance program is informed in writing of the reason(s) for this placement.	Y	N	P
An intensive assistance plan is developed for any teacher placed in such a program.	Y	N	P
The local school district provides the professional development support necessary to enable the teacher to meet the objectives of this plan.	Y	N	P
The local school district takes appropriate action in accordance with legislative, SBESE and local school board mandates if satisfactory improvement is not demonstrated.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

13. Procedures for Resolving Conflict

The teacher evaluation program includes procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. A teacher must sign any evaluation report placed in his/her personnel file. Signature indicates only that the teacher has received a copy of the report. If the teacher does not agree with any aspect of a

report, he/she meets with the evaluator to resolve the disagreement. If the disagreement cannot be resolved, the teacher will attach a signed statement clarifying or rebutting that aspect of the report. Also the teacher may initiate any grievance procedures that apply.

Compliance criteria:				
The evaluation program includes procedures for resolving conflict in a fair, efficient, effective, and professional manner.	Y	N	P	
If the conflict cannot be resolved, the teacher is encouraged to submit a signed statement clarifying or rebutting the issue in question.	Y	N	P	
Grievance procedures are clearly specified for situations where conflict cannot be resolved.	Y	N	P	
Overall assessment: () Approval () Conditional approval () Disapproval				

14. Staff Development for Teacher Evaluation

The school district provides training on a continuing basis for all staff involved in the teacher evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, classroom teachers). This training is supported by the LDE and coordinated through the Regional Service Centers (RSCs). Initial training focuses on developing the following:

- a positive, constructive attitude toward teacher evaluation;
- a knowledge of state laws and local school district policies governing the teacher evaluation process and associated due process procedures;
- an understanding of the Louisiana Components of Effective Teaching; and
- an understanding of the local school district's teacher evaluation program, including the philosophy and purposes, criteria, and procedures.

Further training focuses on developing those skills needed to diagnose and to strengthen or enhance teaching effectively. The skills addressed in such training are as follows:

- data collection skills necessary to document a teacher's performance accurately,
- data analysis skills necessary to make accurate judgements about a teacher's performance,
- conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance,
- skills in developing and facilitating meaningful professional growth plans, plans that strengthen or enhance teaching effectiveness, and
- skills in writing effective evaluation reports, reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom.

Training undertaken by administrators to implement the teacher evaluation process effectively is counted toward the accumulation of Louisiana Administrative Leadership Academy points.

Compliance criteria				
The local school district provides initial training that focuses on developing the following:				
a) a positive constructive attitude toward teacher evaluation	Y	N	P	
b) a knowledge of the laws/policies governing teacher evaluation associated due process procedures	Y	N	P	
c) an understanding of the <i>Louisiana Components of Effective Teaching</i>	Y	N	P	
d) an understanding of the school	Y	N	P	

district's teacher evaluation program
The local school district provides further training in the following skill areas:

a) data collection skills necessary to document teaching accurately	Y	N	P
b) data analysis skills needed to make accurate judgements about teaching	Y	N	P
c) conferencing skills needed to provide clear, constructive feedback	Y	N	P
d) skills in developing meaningful professional growth plans	Y	N	P
e) skills in writing effective teacher evaluation reports	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

15. Impact of the Teacher Evaluation Process

The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed by the staff each spring. The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community.

Compliance criteria:			
The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed each spring.	Y	N	P
The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community.	Y	N	P
Overall assessment: () Approval () Conditional approval () Disapproval			

Implementation and Staff Development Plan

Earlier in this report, this panel recommended that the guidelines just presented be used by the LDE to strengthen and standardize local teacher evaluation programs over a three-year period. An implementation and staff development plan is provided below to guide this process.

September/October 1992

The LDE and the Regional Service Center (RSC) staff, as well as superintendents and personnel evaluation contact persons, are oriented to

- the Louisiana Guidelines for Teacher Evaluation Programs and

- the procedure for using these guidelines to strengthen and standardize teacher evaluation programs at the local school district level.

Teachers and administrators are provided a copy of the Louisiana Guidelines for Teacher Evaluation Programs and are informed how these guidelines will be used to strengthen and standardize local teacher evaluation programs.

October 1992

The local education agencies (LEAs) form an eight to twelve member teacher evaluation steering committee. The superintendent (or his/her designee) and the personnel evaluation contact person will serve on this committee. Two other members of this committee, a teacher and a building administrator, will be selected to serve as the LEA's teacher evaluation resource persons. These two resource persons, the superintendent (or his/her designee) and the personnel evaluation contact person will comprise the LEA's Core Team for teacher evaluation. This Core Team will be trained by the LDE through the RSCs to serve as a teacher evaluation staff development resource to the local school district and its steering committee. Also, the two resource persons on this team will assist the LDE in its review of the

teacher evaluation programs of other school districts in the service region.

October/November 1992

The LDE conducts regional workshops to orient the LEA Core Teams to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedures for reviewing current teacher evaluation programs in light of these guidelines.

December 1992

The Core Team orients the LEA's teacher evaluation steering committee to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedures for reviewing its current teacher evaluation program in light of these new guidelines. Then this steering committee develops and implements a plan to review and revise its teacher evaluation program. The revision plan includes:

- a. a list of the modifications/changes needed,
- b. a process and timeline for making these modifications/changes,
- c. a procedure for sharing the work of the committee with other teachers and administrators in the school district for their reaction and feedback.

January 1993

The local steering committee completes its review of the LEA's teacher evaluation program and submits a Teacher Evaluation Self-Assessment Report to the LDE by February 1, 1993. This is a self-assessment to the extent to which the LEA believes it complies with each of the Louisiana Guidelines for Teacher Evaluation Programs. The steering committee shares the essence of this Self-Assessment Report with other teachers and administrators in the school district.

February/March 1993

The LDE conducts regional workshops to orient the LEA teacher evaluation resource persons to its process for reviewing the Teacher Evaluation Self-Assessment Reports submitted by the local teacher evaluation steering committees. The LDE proceeds with its review of the Teacher Evaluation Self-Assessment Reports. The Self-Assessment Report submitted by each local teacher evaluation steering committee is examined by a three member State Review Team comprised of an LDE staff member and a teacher and an administrator resource person from another school district. The State Review Team examines the steering committee's Self-Assessment Report to determine the extent to which the LEA's teacher evaluation program complies with the Louisiana Guidelines for Teacher Evaluation Programs. The results of this review are summarized in a Teacher Evaluation Status Report that is shared later with the LEA.

March 1993

The LDE completes its review of the Teacher Evaluation Self-Assessment Reports and shares the Teacher Evaluation Status Reports with the LEAs. Then the local teacher evaluation steering committee reviews its LEA's Status Report. Once the steering committee completes this review, it can meet with the LDE staff if it wishes to discuss any aspects of the Status Report or pose any questions it has about discrepancies between the Status Report and the LEA's Self-Assessment Report.

March-May, 1993

The local steering committee follows its plan for making changes/modifications in its teacher evaluation program.

This process includes trying out any new techniques or approaches to teacher evaluation with a small sample of teachers to determine whether they would have the impact desired. Also during this period, the LDE conducts a five-day training program for Core Team members through the RSCs. The purpose of this program is to help teachers and administrators to develop the appropriate understanding of critical teacher evaluation skills to be able to go back to their school districts to train their colleagues in these skills. Topics addressed in this program would include analyzing teaching using the Louisiana Components of Effective Teaching, classroom observation, conferencing, writing effective evaluation reports, developing professional growth plans, and facilitating self-evaluation.

June 1993

The local steering committee completes its plan for implementing the local teacher evaluation program during the 1993-94 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1993 as part of its yearly Personnel Evaluation Report.

July-August 1993

The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1993-94 school year.

September 1993-May 1994

The local steering committee implements its revised teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

November 1993 and March 1994

The State Review Teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The Review Team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

June 1994

The local Steering committee reviews what it has accomplished during the 1993-94 school year and refines its plan for implementing the local teacher evaluation program during the 1994-95 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1994 as part of its yearly Personnel Evaluation Report.

July-August 1994

The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1994-95 school year.

September 1994-May 1995

The local steering committee implements its refined teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

November 1994 and March 1995

The State Review Teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The Review Team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

June 1995

The local steering committee reviews what it has accomplished during the 1994-95 school year and refines its plan for implementing the local teacher evaluation program during the 1995-96 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1995 as part of its yearly Personnel Evaluation Report.

Building a Capacity for Staff Development

The Implementation and Staff Development Plan just presented requires that the LDE build a capacity for staff development through its LEAs and RSCs.

In building such a capacity, it is important that training be provided by personnel that are both knowledgeable in techniques of teacher evaluation, as well as in the process of effective staff development. In summary, there is a need to identify or develop a cadre of good people to conduct the training necessary to strengthen local teacher evaluation practices.

While some out-of-state consultants could be used, it is important to develop a local, Louisiana capacity for staff development in teacher evaluation. This capacity could be accomplished by meeting with the deans in schools of education to learn what staff development resources could be provided through higher education. In addition, superintendents could be polled to obtain their recommendations of people in their districts who are doing some good things in teacher evaluation that could be called on to do training. Depending on what resources are identified through contacts with deans and superintendents, a decision would need to be made as to whether there is a need to develop further staff development resources for teacher evaluation through a trainer of trainers program for select LEA or RSC personnel.

In addition to identifying staff development resources, it is important to determine where the training will take place. Certainly, much of the training will be conducted at the RSCs and in the LEAs. Also, consideration should be given to whether some professional development centers might be established for training in teacher evaluation. These centers would be schools where good teacher evaluation is being practiced. Teachers and administrators would go to these schools to strengthen their evaluation skills through direct involvement in the teacher evaluation process under the supervision of knowledgeable practitioners.

In concluding, this panel believes it is critical that the LDE build an adequate capacity for staff development in teacher evaluation to support its initiative to strengthen local teacher evaluation practices. Also, the LDE must develop a long range plan that clearly conveys to the LEAs those staff development resources that will be available to support local

efforts to strengthen teacher evaluation programs over the next three years.

Developing a Process for the Review and Approval of Local Teacher Evaluation Programs

The focus of the first year of this plan to strengthen and standardize local teacher evaluation programs is on the review and approval of such programs. This panel recommends that an efficient and effective process be developed by the LDE for the local review, as well as State approval of teacher evaluation programs in light of the Louisiana Guidelines for Teacher Evaluation Programs. More specifically, the panel recommends that a *Teacher Evaluation Self-Assessment Report* such as the one presented in Exhibit 1 be developed to facilitate the local review of teacher evaluation programs. This *Report* would be completed first by individual steering committee members. Next their individual ratings for each guideline would be discussed and consensus would be reached as a committee. Then the LEA would submit to the LDE a *Teacher Evaluation Self-Assessment Report* that represents the consensus opinion of its teacher evaluation steering committee.

As noted earlier, the *Teacher Evaluation Self-Assessment Report* submitted by an LEA would be examined by a three-member state review team comprised of an LDE staff member and two teacher evaluation resource persons, a teacher and an administrator from another school district. This team would share the results of its review with the LEA using a *Teacher Evaluation Status Report* such as the one presented in Exhibit 2. The review team's assessment of an LEA's teacher evaluation program with respect to the Louisiana Guidelines for Teacher Evaluation Programs would consist of a consensus rating, as well as comments regarding the program's strengths and aspects that might be improved. If the review team does not approve the LEA's teacher evaluation program with respect to a particular guideline, it must justify this decision clearly in writing.

Once the LEA receives its *Teacher Evaluation Status Report*, it has 30 working days to respond to the LDE, if either it does not agree with the team's assessment or it wishes to submit a plan to comply with any guidelines for which its teacher evaluation program was not approved. In situations in which an LEA submits such a plan, the state review team for that school district would be reconvened to review this plan and to submit a revised *Teacher Evaluation Status Report*. Also, the state review team may be reconvened to deal with those situations in which the LDE does not agree with the team's assessment.

Exhibit 1

Teacher Evaluation Self-Assessment Report

This *Report* has been developed to help your local school districts to assess the status of its teacher evaluation program in light of the new Louisiana Guidelines for Teacher Evaluation Programs. You are being asked to complete this *Report* as a member of your school district's teacher evaluation steering committee. Later your steering committee will meet to a) discuss the responses of committee members and b) reach consensus as to the status of your school district's teacher evaluation program with respect to each guideline.

The Louisiana Guidelines for Teacher Evaluation Programs are listed in the subsequent section of this *Report*. Following each guideline are criteria for determining

whether a school district complies with that guideline. Please review each of the criteria and circle the appropriate response. Circle . . .

Y for Yes, if you believe your school district meets the criterion;

N for No, if you believe your school district does not meet the criterion; or

P for Partial, if you believe your school district has a plan for meeting the criterion.

If you circle Y, please indicate where evidence can be found to support your rating. For example, you may simply refer to a section of your teacher evaluation plan, see pages 7-8 of District Plan. If you circle P, either attach your school district's plan for meeting that criterion or indicate in the evidence section where it can be found, (Example: see page 12 of our School Improvement Plan for 1992-93).

After you have rated each of the criteria for a particular guideline, provide an overall assessment of whether you believe your school district's teacher evaluation program should be approved with respect to that guideline. Check . . .

Approval, if your school district meets all the criteria for that guideline;

Conditional Approval, if your school district has met some of the criteria and has a plan for meeting the others; or

Disapproval, if your school district does not meet all of the criteria for that guideline and has no plan to rectify the situation.

After you have assessed the status of your school district's teacher evaluation program with respect to a particular guideline, please make a note in the Comments section of any issues or questions you want to address with your teacher evaluation steering committee when you meet later to discuss your ratings.

Your cooperation and assistance in carefully completing this *Report* are appreciated. Thank you!

1. Focus on Education Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used to facilitate the attainment of short and long term goals for educational improvement at the district and school building levels more effectively.

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation. Y N P
Evidence:

Teacher evaluation is related to goals for educational improvement at the district level. Y N P
Evidence:

Teacher evaluation is related to goals for educational improvement at the school building level. Y N P
Evidence:

Overall assessment: () Approval () Conditional approval () Disapproval
Comments:

(. . . The remaining guidelines will be presented in this same format on the subsequent pages of the *Report* . . .)

Exhibit 2 Teacher Evaluation Status Report Overall Summary

District: __ Review Team: ____

Date: _____

1. Focus on Educational Improvement

Overall assessment: () Approval () Conditional approval () Disapproval

2. Staff Involvement in the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

3. Philosophy and Purposes of Teacher Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

4. Accountability Relationships

Overall assessment: () Approval () Conditional approval () Disapproval

5. Evaluation Criteria

Overall assessment: () Approval () Conditional approval () Disapproval

6. The Classroom Observation Process

Overall assessment: () Approval () Conditional approval () Disapproval

7. Developing the Professional Growth Plan

Overall assessment: () Approval () Conditional approval () Disapproval

8. Teacher Self-Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

9. The Evaluation Period

Overall assessment: () Approval () Conditional approval () Disapproval

10. Information Included in the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

Exhibit 2 (continued)

11. Coordination with the Induction of Intern Teachers

Overall assessment: () Approval () Conditional approval () Disapproval

12. Intensive Assistance for Experienced Teacher

Overall assessment: () Approval () Conditional approval () Disapproval

13. Procedures for Resolving Conflict

Overall assessment: () Approval () Conditional approval () Disapproval

14. Staff Development for Teacher Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

15. Impact of the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

General Comments: _____

Name: _____

Title: _____

Signed: _____

Teacher Evaluation Status Report Analysis by Guideline

1. Focus on Educational Improvement

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation. Y N P

Teacher evaluation is related to goals for educational improvement at the district level. Y N P

Teacher evaluation is related to goals for educational improvement at the school building level. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval
Comments:

(. . . The remaining guidelines will be presented in this same format on the subsequent pages of the *Report* . . .)

Focusing Beyond the Classroom Teacher

As local school districts review their teacher evaluation programs, it is essential that the evaluation process is strengthened for all professional staff, not just for classroom teachers. Just as the LDE took leadership in the development of the Louisiana Components of Effective Teaching and appropriate procedures for the evaluation of classroom teachers, this panel recommends that the LDE take leadership in developing state criteria and appropriate procedures for the evaluation of their professional staff such as principals, special area teachers, and guidance counselors. Until this issue is addressed by the LDE for school principals, the panel encourages the LEAs to consider the purposes, criteria, and procedures which follow when reviewing their process for evaluating school principals.

Purposes of Principal Evaluation

The purposes of evaluation state why the principal is being evaluated. The basic reasons for which a principal is evaluated are as follows:

School Improvement Xto promote the improvement of school programs and the enhancement of student learning,

Professional Growth and Development Xto foster the professional growth and development of new and continuing principals,

Selection Xto select the best qualified persons for principalships, and

Accountability Xto ensure that only effective principals continue in that role in the school district.

School districts tend to place more emphasis on those purposes dealing with school improvement and professional growth, and less emphasis on those dealing with accountability. This approach is most appropriate, since the goal is to select highly qualified principals who focus their attention on school improvement needs, and to strengthen the performance of these administrators using an evaluation process which fosters professional growth and development. In settings where this approach is taken, less attention needs to be paid to the traditional accountability purpose of evaluation.

Proficiencies of the Effective Principal

The Proficiencies of the Effective Principal² presented on the next page are criteria that can be applied when evaluating a school principal. The term *proficiencies* is used here rather than *competencies*, since *competency* merely suggests adequacy, while *proficiency* connotes a high degree of knowledge or skill. The principal behaviors included in these proficiencies are very similar to those identified through a recent study conducted by the Louisiana Administrative Leadership Academy.

Leadership

Defining Direction. . .

1. Exercises vision in defining the school mission and goals
2. Effectively and clearly communicates goals within and without the community
3. Sets high expectations and standards for attainment of school goals
4. Identifies and analyzes relevant information before making decisions or committing resources
5. Provides incentive to excel for both teachers and student
6. Communicates clearly and persuasively

7. Serves as a role model

Instructional Development

8. Monitors student achievement
9. Collects, analyzes and interprets student and school data to identify areas for instructional and program development
10. Uses knowledge of research in curriculum and instruction to initiate school improvement
11. Evaluates professional and support staff constructively
12. Coaches teachers to enhance their instructional effectiveness
13. Engages in a program of ongoing professional development

Human Relations

Consideration. . .

14. Gives specific and frequent feedback
15. Maintains positive school climate through the use of humor
16. Recognizes and praises the accomplishments of students, teachers and staff

Collaboration. . .

17. Fosters teamwork and collegiality
18. Elicits participation in decision making
19. Facilitates group processes and resolves conflict
20. Encourages participatory leadership on the part of the staff
21. Listens to others

Management

School Program Management. . .

22. Plans and prepares an appropriate budget and manages funds effectively
23. Seeks and allocates appropriate resources (materials, money, time) to support curriculum
24. Implements school programs within the confines of district goals and policies
25. Schedules curricular and co-curricular activities efficiently and effectively
26. Understands and applies knowledge of organizations and community politics in generating support for the school
27. Fosters community support for the school and its programs

The Rules and Regulations. . .

28. Identifies norms, guidelines and procedures for school operation
29. Develops clear school rules
30. Develops effective discipline and attendance policies
31. Accepts responsibility for in-school behavior of students, teachers and staff

General Operations. . .

32. Monitors the overall operation of the school
33. Ensures that the physical plant is kept in good order
34. Protects instructional time
35. Maintains a visible presence in the school

Procedures for Principal Evaluation

The most commonly accepted process for evaluating principals is the performance objectives approach. This approach is outlined below.

A Step-by-Step Evaluation Procedure for Principals³

- I. Determine Needs

1. The principal reviews:
 - a. position description
 - b. administrative skills
 - c. current district and/or building goals
2. The supervisor (evaluator) reviews:
 - a. the above four items
 - b. current performance in relation to the requirements of the job

II. Formulate Work Plan for the Year

1. Principal identifies needs for the coming year based on perceptions of past and current performance.
2. Supervisor reflects on the principal's needs based on past and current performance.
3. Both confer to decide whether the evaluation objective should be a development plan to upgrade existing competencies and/or an improvement plan to correct specific deficiencies.
4. Both discuss necessary activities to achieve the goals of jointly agreed-upon plan.

III. Complete and Implement Work Plan

1. Principal puts work plan in writing, gets approval of supervisor and carries out plan's activities.
2. Supervisor reviews and reacts to principal's work plan and monitors progress in carrying it out.
3. Both parties meet to conduct progress reviews in December and make modifications in plan if needed.
4. Principal completes implementation of work plan.

IV. Assess Results

1. Principal completes self-evaluation form and transmits it to supervisor.
2. Supervisor receives evaluation from principal, completes evaluation of principal's performance and notifies principal of date and place of evaluation conference.

V. Discuss Results

1. Principal and supervisor meet and review principal's evaluation and supervisor's evaluation.
2. They sign final forms.
3. They plan for next evaluation cycle.

Concluding Remarks

This panel has made a number of recommendations directed toward strengthening and standardizing local school districts' teacher evaluation programs. While these recommendations will change teacher evaluation practices in most school districts, simply change was not the primary goal of the panel. Throughout its efforts, the primary intent of the panel was to improve the quality of teacher and learning continually in our schools' classrooms. This improvement was the goal of the Children First Act that led to the reform of teacher evaluation practices in Louisiana. This goal should be the foremost in the minds of teacher evaluation steering committees as they revise or refine their teacher evaluation practices. The true test of whether a teacher evaluation process is effective is evidence that the process has a demonstrable impact on what happens to children in our schools. We are confident that teachers and administrators will perceive our recommendations as an opportunity to implement teacher evaluation practices that improve or enhance the quality of education for children in Louisiana.

Appendix B

Louisiana Components of Effective TeachingX1992, Revised 1998

Domain I. Planning

Planning is an important aspect of the teaching/learning process and is primarily a mental activity. As a result, a pre-conference is essential to discuss plans and the learning environment. Assessment should be made following the pre-conference. The focus of the pre-conference is to be on the components and attributes in the planning domain and any additional teacher-supplied information. Daily written plans should follow local policy. It is the recommendation of this panel that written planning does not go beyond what is required by the local school district.

Component A. The teacher plans effectively for instruction.

Attributes:

1. Specifies learner outcomes in clear, concise objectives

It is not necessary to specify different objectives for each child or groups of children.

2. Includes activity/activities that develop objectives

A required number of activities is not specified because this decision must be made by the teacher.

3. Identifies and plans for individual differences

It is not necessary to specifically describe ways individual differences are to be met in written plans. This will be discussed in the pre-conference.

4. Identified materials, other than standard classroom materials, as needed for lesson.

5. Standard classroom materials include such things as textbooks, chalkboard, pencils, paper, etc.

6. State method(s) of evaluation to measure learner outcomes

7. Evaluation may be formal or informal.

8. Develops an Individual Education Plan (IEP) and/or IFSP*

The Individualized Education Program (IEP) and/or Individualized Family Service Plan (IFSP) will meet state guidelines.

* For special education teachers only.

Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

Organizes available space, materials, and/or equipment to facilitate learning

Promotes a positive learning climate

Component B. The teacher maximizes amount of time available for instruction.

Attributes:

Manages routines and transitions in a timely manner

Manages and/or adjusts allotted time for activities planned

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

Establishes expectations for learner behavior

Uses monitoring techniques to facilitate learning

This may include reinforcing positive behavior, redirecting disruptive behavior, as well as, other methods.

Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best-suited to determine effective instruction for his/her classroom.

It is the responsibility of the observer to discuss the lesson with the teacher for clarification. It is important that the observer understand that variations in the lesson may occur during delivery and that the teacher makes adjustments as necessary to accommodate the needs and responses of students. The post-conference should provide an opportunity for the teacher to present his/her rationale for any modifications during the lesson.

The observer must take into account the individual plans of Act 504, special education regulations, and any other identifiable groups.

Component A. The teacher delivers instruction effectively.

Attributes:

Uses technique(s) which develop(s) lesson objective(s)

Technique(s) may include teacher-directed activity/activities or student-centered activity/activities.

Sequences lesson to promote learning

Sequencing means that the teacher initiates, develops, and closes the lesson with continuity.

Uses available teaching material(s) to achieve lesson objective(s)

Adjusts lesson when appropriate

The teacher integrates technology into instruction

Component B. The teacher presents appropriate content.

Attributes:

Presents content at a developmentally appropriate level

The teacher is knowledgeable of the content and relates it to the abilities and interests of the students.

Presents accurate subject matter

Relates relevant examples, unexpected situations, or current events to the content

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

Accommodates individual differences

The teacher recognizes that students perform at different levels and provides opportunities for them to become involved. There are many ways of accommodating individual differences among children. Some of these are not always evidenced in observations, but in the planning. It may be necessary for the observer to ask the teacher for clarification of this in the post-conference.

Demonstrates ability to communicate effectively with students

Stimulates and encourages higher order thinking at the appropriate developmental levels

Encourages student participation

Component D. The teacher demonstrates ability to assess and facilitate student academic growth

Attributes:

Consistently monitors ongoing performance of students

Uses appropriate and effective assessment techniques.

Assessing student performance may include formal and/or informal assessment procedures as well as formative and summative. Feedback may be verbal or non-verbal.

Provides timely feedback to students

Produces evidence of student academic growth under his/her instruction

Domain IV. Professional Development
(Non-Performance)

Professional development is not a performance component. It provides the opportunity for the teacher to use the evaluation process as a professional development plan. Just as children use different modes of learning, teachers also need to use a variety of channels to achieve professional development. The professional development plan may include a variety of ways in which teachers can engage in growth activities. The successful teacher shall not be mandated to participate in any one specific growth activity.

During the post-observation conference, the principal/designee and the teacher will set a date to discuss the proposed professional self-development plan for the teacher.

Component A. The experienced teacher plans for professional self-development.

These recommended activities are not limited to but may include being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; serving on SACS committees; reading professional literature; conducting research; evaluating programs; participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities will be monitored on the local level.

If an experienced teacher does not perform satisfactorily, an intensive assistance plan shall be developed.

Component B. The new teacher plans for professional self-development.

The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V as agreed upon with his/her principal and other members of the support/assistance team.

If through the assessment process the new teacher does not demonstrate competence in Domains I, II, III, and/or V, a professional growth plan shall be developed which concentrates on the necessary improvements.

If through the assessment process the new teacher has demonstrated competence in Domains I, II, III, and V, the new teacher may select to engage in self-selected growth activities as outlined in Component A of Domain IV.

Domain V. School Improvement

Component A. The teacher takes an active role in building-level decision making

Attributes:

Participates in grade level and subject area curriculum planning and evaluation

Serves on task forces and decision-making committees, when appropriate

Implements school improvement plan

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

Provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning

Encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom

Seeks community involvement in instructional program

Appendix C

Standards for School Principals in LouisianaX1998

Standards for Principals in Louisiana

Standard #1 - Vision:

The principal engages the school community in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Standard #2 - Teaching and Learning:

The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Standard #3 - School Management:

The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Standard #4 - School Improvement:

The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Standard #5 - School/Community Relations:

The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Standard #6 - Professional Development:

The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Standard #7 - Professional Ethics:

The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner

Elaborated Standard: Vision

Vision: The principal engages the school community ⁴ in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- a "preferred" future ⁵ regarding the success of all students;
- group process strategies for melding the diverse values and expectations of the school community into a shared understanding of desired student outcomes;
- theories of child and human development, the teaching-learning process, and models of and processes for on-going school improvement; and
- relevant research findings and strategies for using data to develop and maintain the school vision.

Dispositions

The principal believes in, values, and commits to

- the centrality of students to the school vision and goals;
- involving the school community in establishing the school vision and goals;
- respecting the existing school and community cultures while working for changes that improve outcomes for all students;
- stewardship of the school vision, and sponsorship of school goals; and
- enabling students to think critically about complex issues.

Performances

The principal demonstrates the ability to

- work collaboratively with the school community to develop and maintain a shared school vision;
- bring the school vision to life by using it to guide decision making about students and the instructional programs;
- maintain faculty focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;
- maintain open communication with the school community and effectively convey high expectations for student learning to the community;
- provide opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing school improvement;
- monitor, assess, and revise the school vision and goals as needed; and
- foster the integration of students into mainstream society while valuing diversity.

Elaborated Standard: Teaching and Learning

Teaching and Learning: The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Knowledge and Skills

- The principal has knowledge, skills, and understanding of
- research and theories related to teaching, learning, curriculum development and integration, and motivation;
 - methods for effectively communicating high standards and high expectations for student achievement;
 - strategies for creating an empowering environment that supports innovative teaching and powerful learning ⁶;
 - supervisory and observational techniques that promote effective teaching and learning in a growth oriented environment
 - authentic, psychometrically sound ⁷ methods for assessing student learning
 - emerging technologies and their use in enhancing student learning.

Dispositions

The principal believes in, values, and commits to

- all children's learning at high levels,
- excellence and life-long learning,
- collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking, and

d. developing a caring environment that nurtures teaching and learning.

Performances

The principal demonstrates the ability to

a. recognize, model, and promote effective teaching strategies that enable students to apply what they learn to real world experiences;

b. encourage and support both the use of innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;

c. conduct frequent classroom visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;

d. foster a caring, growth-oriented environment for faculty and students, one in which high expectations and high standards for student achievement are emphasized; and

e. promote collaboration and team building among faculty.

Elaborated Standard: School Management

School Management: The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Knowledge and Skills

The principal has knowledge, skills, and understanding of

a. organizational theory and principles of organizational development;

b. human resources management and development, including related/support/ancillary services;

c. local, state, and federal laws, policies, regulations, and procedures;

d. sound fiscal procedures and practices;

e. time management to maximize the effectiveness of the organization; and

f. current technologies that support management functions.

Dispositions

The principal believes in, values, and commits to

a. building a safe, orderly environment;

b. upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;

c. upholding high standards in the day-to-day operations of the school and using current technology;

d. making management decisions to enhance learning and teaching; and

e. involving members of the school community⁸ in shared decision-making processes.

Performances

The principal demonstrates the ability to

a. maintain a safe, secure, clean, and aesthetically pleasing physical school plant;

b. establish and/or implement laws, policies, regulations, and procedures that promote effective school operations;

c. maintain a positive school environment where good student discipline is the norm;

d. manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;

e. manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective school staff;

f. monitor support services such as transportation, food, health, and extended care responsibly;

g. provide and coordinate appropriate co-curricular and extra-curricular activities;

h. use shared decision making effectively in the management of the school;

i. manage time and delegate appropriate administrative tasks to maximize attainment of the school goals;

j. use available technology effectively to manage school operations; and

k. monitor and evaluate school operations and use feedback appropriately to enhance effectiveness.

Elaborated Standard: School Improvement

School Improvement: The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Knowledge and Skills

The principal has knowledge, skills, and understanding of

a. methods by which information from various sources can be used to establish challenging standards for self, faculty, students, and the school;

b. strategies for monitoring progress toward reaching the standards established;

c. professional literature related to teaching, learning, curriculum, organizational and staff development, and change processes;

d. the school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community; and

e. methods of data collection, analysis, interpretation, and program evaluation.

Dispositions

The principal believes in, values, and is commits to

a. empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the school community;

b. working toward consensus and compromise among members of the school community, guided by the school vision and goals;

c. examining one's own assumptions, practices, and beliefs in the light of new knowledge;

d. accepting limitations and mistakes from self and others while maintaining commitment to the standards established;

e. encouraging faculty experimentation in order to maximize opportunities for all students to learn; and

f. promoting a school culture that values and promotes individual and collaborative reflection and learning.

Performances

The principal demonstrates the ability to:

a. provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and school goals;

b. grow professionally by engaging in professional development activities and making such activities available to others;

c. facilitate school-based research and use these and other research findings to plan school improvement initiatives, pace the implementation of these changes, and evaluate their impact on teaching and learning;

d. foster the genuine continuous involvement and commitment of the school community in promoting the progress of all students toward attaining high standards; and

e. enhance school effectiveness by appropriately integrating the processes of teacher selection/evaluation and professional development with school improvement.

Elaborated Standard: Professional Development

Professional Development: The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Knowledge and Skills

The principal has knowledge, skills, and understanding of

a. theories related to motivation, adult learning, and staff development;

b. sound pedagogical practices and emerging technologies;

c. current trends in terms of social, political and cultural influences on education;

d. research, measurement, and assessment strategies;

e. organizational learning for school cultures, goal setting, change processes, and group dynamics; and

f. resource management.

Dispositions

The principal believes in, values, and is commits to

a. life long learning for self and others;

b. ongoing change processes;

c. faculty expertise and collaborative work strategies; and

d. fostering creativity and establishing high expectations in self and others.

Performances

The principal demonstrates the ability to

a. communicate a focused vision for both school and individual professional growth;

b. use research and data from multiple sources to design and implement professional development activities;

c. secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;

d. provide opportunities for individual and collaborative professional development;

e. provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels; and

f. assess the overall impact of professional development activities on the improvement of teaching and student learning.

Elaborated Standard: School-Community Relations

School-Community Relations: The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Knowledge and Skills

The principal has knowledge, skills, and understanding of

a. the composition of the school community including relevant demographic statistics and trends, competing issues and values, and available resources;

b. successful strategies for establishing positive school-community relations and fostering parental and community participation;

c. techniques for promoting the positive aspects of the school and communicating with the media effectively; and

d. effective interpersonal communication skills.

Dispositions

The principal believes in, values, and is commits to

a. establishing a partnership with the school=community for mutually supportive relationships;

b. promoting the school as an integral part of the community;

c. diversity as a strength; and

d. promoting the positive aspects of the school, celebrating successes, acknowledging the school's shortcomings, and involving the community in overcoming problems within the school.

Performances

The principal demonstrates the ability to

a. be visible and involved in the community and treat members of the school community equitably;

b. involve the school in the community while keeping the school community informed;

c. use school-community resources to enhance the quality of school programs, including those resources available through business and industry;

d. recognize and celebrate school successes publicly; and

e. communicate effectively both interpersonally and through the media.

Elaborated Standard: Professional Ethics

Professional Ethics: The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Knowledge and Skills:

The principal has knowledge, skills, and understanding of

a. various perspectives on ethics;

b. his/her own principled convictions about what is best for students and the ethical implications of those convictions;

c. relevant laws, policies, regulations, and procedures and the relationship of these to protecting the rights of individuals; and

d. ethical means for improving school programs.

Dispositions

The Principal believes in, values, and is commits to

a. being accurate in providing information while respecting the rights of others;

b. caring for the feelings of others;

c. principled action in upholding the substance of laws, policies, regulations, and procedures; and

d. using the influence of the principalship constructively and productively in the service of all students.

Performances

The principal demonstrates the ability to:

a. model ethical behavior at both the school and community levels;

b. communicate to others expectations of ethical behavior;

- c. respect the rights and dignity of others;
- d. provide accurate information without distortion or violating the rights of others;
- e. develop a caring school environment in collaboration with the faculty and staff;
- f. apply laws, policies, regulations, and procedures fairly, consistently, wisely, and compassionately;
- g. minimize bias in self and others and accept responsibility for his/her own decisions and actions; and
- h. address unethical behavior in self and others.

Appendix E

Louisiana Department of Education

Personnel Evaluation Glossary In order that consistency in terminology be maintained on a statewide basis, the LDE has established a list of terms and the definitions of each. Careful consideration of each should be given during the development of the LEA personnel evaluation programs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA plan for personnel evaluation. The definitions below must be adopted by all LEAs.

AccountabilityXshared responsibility for actions relating to the education of children.

AdministratorXany person whose employment requires professional certification issued under the rules of the board in *Bulletin 746*, or who is employed in a professional capacity other than a teacher.

AssessmentXthe process by which the Louisiana Department of Education determines whether a new teacher who is seeking to retain or to acquire a regular teaching certificate can sufficiently demonstrate the Louisiana Components of Effective Teaching to qualify for the teaching credential being sought.

Assistance levelXthe number of times assistance has been prescribed.

Certified school personnelXthose persons whose positions require LDE certification.

CriteriaXdemonstrable levels of performance upon which a judgment or decision may be based.

Due ProcessXfair and impartial treatment as guaranteed under the law, including, but not limited to, the 1st, 5th, and 14th Amendments to the Constitution of the United States; Section 1983 of the Civil Rights Act of 1871; Title VII of the Civil Rights Act of 1964; and Title IX of the Educational Amendment of 1972, relative to substantive and procedural requirements.

DutiesXthose actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

Educational accountabilityXthe respective shared responsibilities and duties of the following groups: local school boards, administrators, principals, teachers, and other personnel; the LDE; parents and students; and other governing authorities as specified by the constitution and laws of the state.

EvaluateeXone who is evaluated.

EvaluationXthe process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the

situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

Evaluation PeriodXthe period of time during each school year during which the evaluation program will be conducted

EvaluatorXone who evaluates.

GoalXa statement of broad direction or intent which is general and timeless and which is not concerned with a particular achievement within a specified time period.

Instructional PersonnelXthose LEA personnel who provide classroom instruction (e.g., classroom teacher, special education teacher, special projects teacher).

Intensive Assistance PlanXthe plan that is implemented when experienced personnel do not meet the local school system's standards of performance through the personnel evaluation process. This plan specifies what the evaluatee needs to do to strengthen his/her performance, what assistance/support is provided by the local system, the timelines and procedures for monitoring the progress, and the action that will be taken if improvement is not demonstrated.

Job DescriptionXa statement of the position title, qualifications, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria that specify the level of job skill required. (The *Louisiana Components of Effective Teaching* must be included for instructional personnel, and the *Standards for Principals* must be included for building-level administrators.) Space must be provided for signature and date.

LEAXlocal educational agency, parish/city school board, local school system.

LEA Steering CommitteeXa local school district committee representing instructional, certified, and other professional personnel to review the current personnel evaluation program.

LDEXLouisiana Department of Education.

Multi-OpportunityXmore than one opportunity.

New TeacherXany full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting; one who is not an administrator and who is employed for the first time in a public school in this state after August 1, 1994; one who holds a regular teaching certificate, which when issued was valid for three years; or one who is authorized under law or board regulation to teach temporarily while seeking a regular teaching certificate.

Non-Instructional Certified and Other Professional School PersonnelXthose LEA personnel who do not provide classroom instruction.

ObjectiveXa devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

ObservationXthe process of gathering facts, noting occurrences, and documenting evidence of performance.

Other professional school personnelXall school employees whose positions do not require a teaching certificate but do require a college degree and/or employees without a college degree who assume major management functions by directing, administering, or managing significant departments or divisions within the LEA.

Performance criteriaXgeneral and specific standards by which personnel may be evaluated and on which judgments and decision making may be based.

PhilosophyXa composite statement of the relationship between the individual and society based upon beliefs, concepts, and attitudes from which the goals and purposes of the district's mission are derived.

Professional Growth PlanXa written plan formulated by the satisfactorily-performing evaluatee to enhance his/her skills and performance. The plan includes specific goal(s), objective(s), action plans, timelines, and evaluation criteria.

Public SchoolsXpublic elementary and secondary schools governed by parish or city school boards and under the supervision of the State Board of Elementary and Secondary Education (SBESE).

School BoardXparish or city school board governing public elementary and secondary schools.

School DistrictXthe area of each parish or municipality under the jurisdiction of a local school board.

School PersonnelXteachers, librarians, counselors, administrators, and other professional personnel of the public schools of the state, including members of the professional staff of the LDE.

Self-EvaluationXthe process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the characteristics of the given situation, and the specific standards for performance pre-established for the position; to be submitted by the evaluatee to the appropriate evaluator for use in the compilation of the individual's evaluation report.

Single Official Personnel FileXsingle personnel file maintained in the LEA central office. At minimum, the contents of the single official personnel file must include

- 1) documentation for the annual review or update of job descriptions and self-evaluations,
- 2) copies of completed observations and evaluations, and
- 3) completed professional growth plans or evidence to support the initiation and annual review of long term growth plans.

Staff DevelopmentXprocess designed for groups of LEA personnel with similarities guided by school/district goals and plans. It should encourage collective growth in a common direction and lead to an enhanced repertoire of skills/concepts.

StandardXthat which is set up and established by an authority or by mutual acceptance as a basis for the measure of quantity, value, or quality.

Standard of PerformanceXan authoritative or mutually established level of accomplishment.

TeacherXany full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting including a librarian, an assessment teacher, a speech therapist, and a counselor; one who is not an administrator; and who has successfully completed the Teacher Assistance and Assessment Program or who is not

required to participate in the Teacher Assistance and Assessment Program.

TriennialXoccurring every third year.

Uniform Evaluation SystemXa system of evaluation that applies the same procedures in a consistent manner to all employees of each type or class of certified employees, as well as other professional school personnel.

¹Iwanicki, E. F. (1992) A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools. Storrs, CT: The Connecticut Institute for Personnel Evaluation, Department of Educational Leadership, The University of Connecticut

²From: Iwanicki, E.F. & Shibles, M. (1990). A Guide to the Process of Evaluating School Principals. P.O. Box 220, East Lyme, CT: The Connecticut Principals' Academy, p. 7.

³From: McCurdy, J. (1983). The Role of the Principal in Effective Schools: Problems & Solutions (an AASA Critical Issues Report). Arlington, VA: American Association of School Administrators, p. 89.

⁴School community - individuals who have interests in or are affected by events at the school, including administrators, faculty, staff, students, parents, and external community members, such as those associated with business, civic, and service organizations, etc.

⁵Preferred future - an understanding and conviction to teachers and students that opportunities available to students are not limited.

⁶powerful learning - learning that occurs when students are proactive in developing skills through intrinsically challenging activities that build both cognitive and affective skills, and that require both group work and individual effort (adapted from Levin, H. (1996). Accelerated Schools: The background (pp.3-23). In C. Finnan, E.P. St. John, J. McCarthy, and S.P. Slovacek (Eds.). Accelerated schools in action: Lessons from the field. Thousand Oaks, CA: Corwin)

⁷psychometrically sound - data that are valid and reliable; refers to data from tests and other forms of assessment.

⁸School community - individuals who have interests in or are affected by events at the school including administrators, faculty, staff, students, parents, and external community members, such as those associated with business, civic, and service organizations, etc.

Interested persons may submit written comments until 4:30 p.m., June 11, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Compliance Handbook 2200XGuidelines for Personnel Evaluation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$756 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state and local governmental groups.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The printing of the Guidelines for Personnel Evaluation, Compliance Handbook 2200 has no effect on competition or employment.

Marlyn J. Langley

H. Gordon Monk

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for
School AdministratorsXHonors Curriculum
(LAC 38: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). To be consistent with changes in the mathematics graduation requirements for 1997-98 incoming freshmen and thereafter, the Board of Elementary and Secondary Education approved mathematics requirements for the BESE Honors Curriculum. In advertising this policy change, an error was made omitting 1/2 unit of Health Education and listing 2 units of Physical Education. This action is required to correct this error.

Title 28 EDUCATION

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

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 27:

High School Graduation Requirements The State Board of Elementary and Secondary Education Honors Curriculum (Standard 2.099.02)

(Effective for incoming freshmen 1997-98 and thereafter)

English	4 Units
English I, II, III, IV (No substitutions)	
Mathematics	4 Units
Algebra I or Applied Mathematics I and II; Algebra II; Geometry or Applied Geometry; and one Additional unit to be selected from Pre-Calculus, Calculus, Advanced Mathematics I or II	
Natural Science	3 Units
Biology; Chemistry; and Environmental Science, Physics of Physics of Technology	
Social Studies	3 Units
United States History; World History; and World Geography or Western Civilization	

Fine Arts Survey

1 Unit

Any two units of credit is band, orchestra,
choir, dance, art or drama may be substituted for one unit
of Fine Arts Survey

Foreign Language (In same language)	2 Units
Health Education	1/2 Unit
Physical Education	1 1/2 Units
Electives	4 Units
Total	24 Units

Interested persons may submit written comments until
4:30 p.m., June 11, 2001, to Nina A. Ford, Board of
Elementary and Secondary Education, Box 94064, Capitol
Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Honors Curriculum

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)
The implementation of changes requires no cost or savings
to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local
governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)
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 Langley
Deputy Secretary of
Management and Finance
0104#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
AdministratorsXPre GED/Skills Option Program
(LAC 28:901)

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). The proposed program to be added to Bulletin 741 is the Pre-GED/Skills Option Program. It provides for Pre-GED

instruction for part of the day and skills courses or job-related courses for the remainder of the day. The program is intended for those students who are 16, behind in the earning of Carnegie units in order to complete high school in the typical 4-year period, and who have failed a high stakes test, or are participating in out-of-level testing. It is an alternative program outside of the regular curriculum of studies, but the students may continue to earn Carnegie units while in the program and may return to the regular program when they show evidence of ability to graduate with a regular high school diploma. The changes made to the policy as recommended by the SBESE at its February meeting are as follows:

1. that the implementation of the program be a mandate to districts, not a choice. Thus, all Louisiana schools must begin implementation by the fall of the 2001-2002 school year;

2. that full implementation of the Pre-GED/Skills programs may be phased in with full implementation by the fall of the 2002-2003 school year;

3. that the specific number of Carnegie credits required per age of student be identified for student eligibility: not more than 5 credits by age 17, 10 credits by age 18, and 15 credits by age 19; 4. that the schools/businesses that districts are encouraged to work with be changed from "vocational schools" to "postsecondary institutions and youth-serving entities."

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:

Bulletin 741X Alternative Schools Section

Pre-GED/Skills Option Program

1.151.05A school system shall implement the Pre-GED/Skills Option Program and shall obtain approval from the State Department of Education at least 60 days prior to the establishment of the program. Program components may be phased in with full implementation required by school year 2002-2003. (See High Stakes Testing Policy in Bulletin 1566.)

A program application describing the Pre-GED/Skills Option Program shall be submitted and shall address the following program requirements:

1. Students shall be 16 years of age or older and meet one or more of the following criteria:

*Shall have failed LEAP 21 English language arts and/or math 8th grade test for one or two years;

*Shall have failed English language arts, math, science and/or social studies portion of the GEE;

*Shall have participated in out-of-level testing or alternate assessment;

*Shall have earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, and not more than 15 Carnegie units by age 19.

2. Enrollment is voluntary and requires parent/guardian consent.

3. Counseling is a required component of the program.

4. The program shall have both a Pre-GED/academic component and a Skills/job training component. Traditional Carnegie credit course work may be offered but is not required.

Districts are encouraged to work with local, postsecondary institutions, youth-serving entities, and/or businesses in developing the Skills component.

5. BESE will require the Pre-GED/Skills Option Program to be on a separate site. Exceptions will be considered based on space availability, transportation or a unique issue.

6. Students who complete only the Skills section will be given a Certificate of Skills completion.

7. Students will count in the October 1st MFP count.

8. Students will be included in School Accountability. While enrolled, they will be required to take the 9th grade Iowa Test or participate in out-of-level testing. All programs will be considered Option 1 for alternative education purposes, and student data will be sent back to the high schools to be included in the attendance and dropout rates and in the Iowa Test scores. (See Standard 2.006.17 of Bulletin 741.)

Refer to the Guidelines and Application Packet provided by the Louisiana Department of Education for the requirements to establish a Pre-GED/Skills Option Program.

Interested persons may submit written comments until 4:30 p.m., June 11, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School AdministratorsXPre GED/Skills Option Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The state of Louisiana will have a total cost of \$80.00 for printing costs of one page in Bulletin 741.

The local school districts must cover the cost of Pre-GED instructors, examinations that show pupil growth, predictor tests that show the likelihood of student success on the GED examination, textbooks at the technical college, and the cost of transportation. The cost of all supplies including textbooks is generally covered by the students. The estimated average cost for a Louisiana school district to implement a Pre-GED Skills Program on 5 sites of existing high schools would be about \$165,000, not including any computer software to assist in instruction which costs an average of \$1500 in start-up funds. These figures were obtained from the budget manager at Vermilion Parish where the parish has a Pre-GED/Skills Program at 5 high schools in the parish.

To implement an off-site school with Pre-GED/Skills components, the cost would be approximately \$156,000 per year. This figure includes the cost of utilities, administrator's, teacher's, secretaries, and custodial salaries, benefits, substitutes, supplies, cost of purchasing computers and software, and professional development for the teachers. These figures were obtained from the budget manager at Morehouse Parish where a Pre-GED/Skills Program was begun during the 2000-2001 school year. This figure is for one site only.

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)

The economic benefits to students would be significant because they will be graduates from high school with a recognized credential, either a GED or a Skills Certificate awarded by the district. The program will teach the students employment skills as well as the skills necessary to perform a particular job, thus providing income for the student and economic benefits for the district in the form of income spent by the student in that district and the services he provides to others in the parish through his skills knowledge.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

With the increase in numbers of students able to graduate from high school with a recognized credential and with job-related skills, there will be a large effect on competition and employment in each district.

Marlyn Langley
Deputy Secretary of
Management and Finance
0104#051

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—School Performance Scores
(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 follows: Clarification in the comparison data used to determine a school's Growth Target.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 27:

Bulletin 741XLouisiana Handbook

for School AdministratorsXThe Louisiana School and
District Accountability System

2.006.03 School Performance Scores for K-8

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

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The comparison SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data. Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

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

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

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

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

- A score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students.
- A score including regular education students and students with disabilities eligible to participate in the CRT and/or NRT tests.
- For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools, the School Performance Score that includes only regular

education students shall be used.

Formula for Calculating an SPS [K-8]

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

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

Criterion-Referenced Tests (CRT) Index Calculations [K-8]

A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

Formula for Calculating a CRT Index for a School [K-8]

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

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

- retained on the 8th grade campus
- must retake all parts of the 8th Grade LEAP 21

If, during spring testing, a repeating fourth grade student or Option I 8th grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics, English language arts, science or social studies, for which he/she received a score of Unsatisfactory the previous spring; the retaining school shall receive 50 bonus points per subject in its CRT index. A student may earn a maximum of 200 bonus points for his/her school. (No bonus points will be given for passing parts of tests in the summer school of the year he/she first failed in spring testing.)

Transition Years [K-8]

To accommodate the phase-in of the Social Studies and Science components of the CRT tests for Elementary and Secondary Accountability Cycles, the following LEAP Test components shall be used when calculating the School Performance Scores (SPS) for K-8 :

Timelines/School Years			LEAP-CRT Index Components	
Cycle	Baseline SPS Data	Growth SPS Data	Grade	
			4	8

			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies
1	1998-1999	2000-2001	✓	✓			✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓

Norm-Referenced Tests (NRT) Index Calculations [K-8]

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

NRT Goals and Equivalent Standard Scores
Composite Standard Scores Equivalent to Louisiana's 10- and 20- Year goals, by Grade Level*
Grade

Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$ SS = $(\text{Index 3rd grade} + 679.2)/4.167$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$ SS = $(\text{Index 5th grade} + 544.1)/2.941$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$ SS = $(\text{Index 6th grade} + 477.5)/2.500$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$ SS = $(\text{Index 7th grade} + 428.3)/2.174$

Formula for Calculating a School's NRT Index [K-8]

1. Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
2. Zero shall be the lowest NRT Index score reported for accountability calculations.
3. Compute the total number of index points in all grades in the school.
4. Divide the sum of NRT Index points by the total number of students eligible to be tested.

Attendance Index Calculations [K-8]

An Attendance Index score for each school shall be calculated. The initial year's index shall be

calculated from the prior year's attendance rates. Subsequent years indexes shall be calculated using the prior two year's average attendance rates as compared to the state goals.

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

Lowest Attendance Index Score

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

Dropout Index Calculations [7-8]

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

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

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

Dropout Index Formulas	
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25

Lowest Dropout Index Score

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

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0 – 100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a

given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates.

Transition Years [9-12]	
To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced, the following indicators shall be used for each year:	
Timelines/School Years	Indicators Included

Cycle	Baseline SPS Data	Growth SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03				*	*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)				*	*

*Indicates use of prior year data for these indexes.

<p>Transition Years [Combination Schools]</p> <p>Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.</p> <p>To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the following LEAP Test components shall be used when calculating the SPS for combination schools.</p>	
Growth SPS Data	CRT Index Components
2001	All CRT (without 11 th grade) (Cycle 1)
2002	All CRT (without 11 th grade) (Cycle 1) All CRT (Cycle 2)
2003	All CRT (without 11 th grade) (Cycle 1) All CRT (Cycle 2)

<p>Formula for Calculating an SPS – Accountability Cycle 1 [9-12]</p> <p>During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:</p> $\text{SPS} = (.60 * \text{Grade 10 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$ <p>All intermediate results and the final result shall be rounded to the nearest tenth.</p> <p>The following is an example of how this shall be done:</p> $[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0$			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0
<p>Formula for Calculating an SPS – Accountability Cycle 2 [9-12]</p> <p>During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:</p> $\text{SPS} = (.30 * \text{Grade 10 CRT Index}) + (.30 * \text{Grade 11 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$ <p>In this example,</p> $[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2$			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8
CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4

SPS	67.2
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<p>Norm-Referenced Tests (NRT) Index Calculations [9-12]</p> <p>For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.</p>		
NRT Goals and Equivalent Standard Scores for Grade 9		
Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	264
20-Year Goal	75 th	288

<p>NRT Formulas Relating Student Standard Scores to NRT Index [9-12]</p> <p>Where the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, the index for a grade 9 student is calculated as follows:</p> $\text{Index 9}^{\text{th}} \text{ grade} = (2.083 * \text{SS}) - 449.9$ $\text{SS} = (\text{Index 9}^{\text{th}} \text{ grade} + 449.9) / 2.083$
<p>Option II students: those students failing the 8th grade LEAP 21 that have been</p> <ul style="list-style-type: none"> retained and placed on the high school campus must take the 9th grade NRT must retake only the parts of the 8th grade LEAP 21 they originally failed (English language arts and/or mathematics) <p>If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring; the high school shall receive 50 bonus points per subject in its accountability index. A student may earn a maximum of 100 bonus points for his/her school.</p>

<p>Criterion-Referenced Tests (CRT) Index Calculations [9-12]</p> <p>A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.</p>	
Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

<p>Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School</p> <ol style="list-style-type: none"> Sum the number of points earned by all students. For the NRT, there shall be one score for each student—the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade. Divide by the total number of students eligible to be tested times the number of content area tests. This provides the raw achievement index for the grade. Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and all the previous grades. This means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This shall yield the Adjusted Achievement Index. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations. <p>Example 1 – Grade 9:</p> <ul style="list-style-type: none"> Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is:

$(5/50) = .100$ <ul style="list-style-type: none"> The number of points earned on the NRT is 5000. The raw achievement index is: $5000/45 = 111.1$ The adjusted achievement index is: $111.1 \times (1 - .100) = 100.0$
<p>Example 2 – Grade 10:</p> <ul style="list-style-type: none"> Another 5 students drop before October of grade 10. The grade 10 dropout rate is: $5/45 = .111$ The 40 students remaining in the class earn 10000 points on the two CRT tests. The raw achievement index is: $10000/(40 \times 2) = 125.0$ The adjusted achievement index is: $125.0 \times (1 - .100) \times (1 - .111) = 100.0$

<p>Attendance Index Calculations for Grades 9-12 An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two year' average attendance rates as compared to the state goals.</p>		
<p style="text-align: center;">Attendance Goals</p>		
	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%
<p>Attendance Index Formula for Grades 9-12 Where the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and where ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows: Indicator (ATT 9-12) = $(16.667 \times \text{ATT}) - 1450.0$</p> <p>Example:</p> <ul style="list-style-type: none"> If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 \times 94.3) - 1450.0 = 121.7$ <p>Zero shall be the lowest Attendance Index score reported for accountability calculations.</p>		

<p>Dropout Index Calculations for Grades 9-12 A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the state goals.</p>		
<p style="text-align: center;">Dropout Goals</p>		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%
<p>Dropout Index Formula for Grades 9-12 Dropout Index = $187.5 - (12.5 \times \text{dropout rate})$</p> <p>Example:</p> <ul style="list-style-type: none"> If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 \times 4.5) = 131.3$ <p>Zero shall be the lowest Dropout Index score reported for accountability calculations.</p>		

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

Interested persons may submit written comments until 4:30 p.m., June 11, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—School Performance Scores**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
- There are no estimated implementation costs to state governmental units. The proposed change more clearly explains and refines the existing policy as it pertains to the comparison data used to determine a school's Growth Target.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0104#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School PersonnelXCertificate Renewal of School Psychologists (LAC 38:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. The proposed rule change updates and clarifies outdated language. It also provides a method during the state mandated five-year renewal period to recognize the newly adopted certification as a Nationally Certified School Psychologist which requires a three-year renewal.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Standard Certificate (valid for five years, renewable)

1. Issued on completion of a school psychology training program in Louisiana which meets the requirements of current Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists.*

2. Issued to persons who have completed academic preparation in school psychology in another state and whose academic preparation, as evaluated by the Division of Teacher Standards, Assessment, and Certification, is judged to meet the requirements of the current Standards for Training and Field Placement Programs in School Psychology established by the National Association of School Psychologists.

3. Issued to persons who hold current documentation as a Nationally Certified School Psychologist from the National Association of School Psychologists.

4.a. - 5.b. ...

B. Provisional Certificate (valid for one year; renewable once, unless lapsed)

1. Issued to persons who have completed academic preparation in school psychology that meets the requirements of current Standards for Training and Field Placement Programs in School Psychology, except for the internship. The internship shall be completed during the time of the provisional certificate in accordance with the internship requirements in current Standards for Training and Field Placement Programs in School Psychology.

B.2. - C.1.a. ...

b. six semester hours of additional graduate credit in any of the areas specified in current Standards for Training and Field Placement Programs in School Psychology; or

c. the equivalent number of Continuing Professional Development/Education Units (9.0 CEU or 90 contact hours) currently awarded by the National Association of School Psychologists, the American Psychological Association, or awarded or approved by the State Department of Education; or

d. a combination of graduate credit hours and Continuing Professional Development/Education Units equivalent to six semester hours (each semester hour = 1.5 Continuing Professional Development/Education Units) for a total of 9.0 Continuing Professional Development/Education Units; or

e. upon presentation of continuous certification as a Nationally Certified School Psychologist since the previous certification or renewal date.

C.2. ...

3. Lapsed certificates may be renewed upon verification of the criteria listed under paragraph 1 above. A Provisional Certificate may be awarded for a one-year period during which time the individual must meet the renewal requirements to be awarded the Standard Certificate.

4. A School Psychologist or School Psychological Assistant certified at Levels E, D, or C (if less than two years of experience) according to criteria previously adopted by the State Board of Elementary and Secondary Education shall have continuing approval for the provision of School Psychological services so long as such certification is kept valid according to the previous renewal criteria. Graduate training taken to meet the renewal requirements for the previous criteria shall be earned in the areas specified in the current Standards for Training and Field Placement Programs in School Psychology.

*These standards are on file in the Division of Teacher Standards, Assessment, and Certification in the State Department of Education.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635 (April 2000); LR 26:638 (April 2000), LR 27:

Interested persons may submit comments until 4:30 p.m., June 11, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School PersonnelXCertificate Renewal of School Psychologists

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage to disseminate the policy).
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This policy clarifies and updates outdated language, and provides a method during the five year renewal period to recognize the National Certified School Psychologist Certification.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0104#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State
Certification of School Personnel—Suspension, Revocation,
and Reinstatement of Certificates for Criminal Offenses
(LAC 28:I.903)

In accordance with R.S. 49:950, et. seq, the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed rule change includes language relative to specific criminal offenses which is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for reinstatement of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §903. Teacher Certification Standards and Regulations

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000); LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:

Bulletin 746XLouisiana Standards for State Certification of School PersonnelXSuspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term “offense” or “crime” shall include those listed in R.S. 15:587.1(C) and any felony offense whatsoever.

The term “teaching certificate” or “certificate” shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term “teacher” shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term “convicted” or “conviction” shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term “Department” refers to the Louisiana Department of Education.

The term “Board” refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purposes of suspension and/or revocation.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude suspension and/or revocation of a teaching certificate.

IV. When the Department is notified that any teacher has been convicted of a specific crime:

A. Department staff shall attempt to contact the teacher to inform him/her that the Department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or

other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the Department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The Board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official Board action.

D. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that a hearing will be conducted by the Board to consider revocation. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

E. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed as will all other steps in the process outlined in this policy.

V. Upon official action by the Board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the Board for reinstatement of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, vacated, or set aside, such action may be communicated to the Board through documentation from the court in which the conviction occurred. The Board may receive such information and order immediate reinstatement of the teacher's certificate.

VII. Time Restrictions on Applications for Reinstatement:

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:82.1, 14:81.1, 14:81.2, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. For other final convictions rendered 0 to 3 years prior to revocation, reinstatement will not be considered for at least 3 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

C. For other final convictions rendered four to six years prior to revocation, reinstatement will not be considered for at least two years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

D. For other final convictions rendered seven to nine years prior to revocation, reinstatement will not be considered for at least 1 year from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

E. For other final convictions rendered more than nine years prior, a teacher may apply immediately for reinstatement.

VIII. Procedures for Reinstatement:

A. An individual may apply to the board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions:

1. There have been no other arrests or convictions (the applicant must provide a current background check that is clean and clear).

2. There has been successful completion of all conditions/requirements of parole and/or probation (the applicant must provide copies of court records, sentencing recommendations, probation release forms, etc., and written verification that all requirements have been completed and/or met).

3. There is documented evidence of rehabilitation (the applicant is responsible for providing copies of every requested document).

B. The applicant must:

1. Contact the office of the Board of Elementary and Secondary Education.

2. Provide each item identified above (VIII.A.1 and 2) and below (VIII.C.1, 2, and 3 *required*, VIII.C.4, 5, and 6 *recommended*).

3. Request a reinstatement hearing.

C. Evidence of rehabilitation is not limited to, but shall include 1, 2, and 3 (below) and should include 4, 5, and 6 (below).

1. Letter of support from the local district attorney from the jurisdiction in which the conviction occurred.

2. Letter of support from the local judge from the jurisdiction in which the conviction occurred.

3. Letter of support from the applicant's parole/probation officer, local police chief, or local sheriff.

4. Letter of support from a local school superintendent.

5. Letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.).

6. Other letters of support or written reports that verify the applicant's rehabilitation.

D. The board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

E. If the board or its designees decide to conduct a reinstatement hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

F. The committee of the Board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the Board's action.

IX. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1:

R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.)

Specifically:

* R.S. 14:30	First degree murder
* R.S. 14:30.1	Second degree murder
R.S. 14:31	Manslaughter
* R.S. 14:41	Rape
* R.S. 14:42	Aggravated rape
* R.S. 14:42.1	Forcible rape
* R.S. 14:43	Simple rape
* R.S. 14:43.1	Sexual battery
* R.S. 14:43.2	Aggravated sexual battery
* R.S. 14:43.3	Oral sexual battery
* R.S. 14:43.4	Aggravated oral sexual battery
* R.S. 14:43.5	Intentional exposure to the AIDS virus
* R.S. 14:44	Aggravated kidnapping
* R.S. 14:44.1	Second degree kidnapping
* R.S. 14:45	Simple kidnapping
R.S. 14:74	Criminal neglect of family
* R.S. 14:78	Incest
* R.S. 14:79.1	Criminal abandonment
* R.S. 14:80	Carnal knowledge of a juvenile
* R.S. 14:81	Indecent behavior with a juvenile
* R.S. 14:81.1	Pornography involving juveniles
* R.S. 14:81.2	Molestation of a juvenile
R.S. 14:82	Prostitution
* R.S. 14:82.1	Prostitution; persons under seventeen; additional offenses
R.S. 14:83	Soliciting for prostitutes
R.S. 14:83.1	Inciting prostitution
R.S. 14:83.2	Promoting prostitution
R.S. 14:83.3	Prostitution by massage
R.S. 14:83.4	Massage; sexual content prohibited
R.S. 14:84	Pandering
R.S. 14:85	Letting premises for prostitution
R.S. 14:85.1	Letting premises for obscenity
* R.S. 14:86	Enticing persons into prostitution
* R.S. 14:89	Crime against nature
* R.S. 14:89.1	Aggravated crime against nature
R.S. 14:92	Contributing to the delinquency of juveniles
* R.S. 14:93	Cruelty to juveniles
* R.S. 14:93.2.1	Child desertion
R.S. 14:93.3	Cruelty to the infirm

R.S. 14:106	Obscenity
R.S. 14:282	Operation of places of prostitution prohibited
* R.S. 14:286	Sale of minor children
R.S. 40:966(A)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
R.S. 40:967(A)	Prohibited acts; Schedule II, penalties; Manufacture; distribution
R.S. 40:968(A)	Prohibited acts--Schedule III; penalties; Manufacture; distribution
R.S. 40:969(A)	Prohibited acts--Schedule IV; penalties; Manufacture; distribution
R.S. 40:970(A)	Prohibited acts--Schedule V; penalties; Manufacture; distribution

* Reinstatement will never be considered for crimes marked with an asterisk.

* * *

Interested persons may submit comments until 4:30 p.m., June 11, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Louisiana Standards for State Certification of School Personnel—Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$160. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This policy requires that any person who holds a teaching certificate and has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever would be required to follow the prescribed procedures for consideration of certificate reinstatement, if reinstatement is possible, after suspension and revocation of the certificate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
0104#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Consent Forms (LAC 46:LXXXV.1039)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.1039 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq. The 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 10. Rules of Professional Conduct

§1039. Conduct of One's Practice

A. ...

B. Prior to the commencement of general anesthesia in a non-emergency situation, a licensed veterinarian shall have the owner or duly authorized agent of the owner execute an anesthesia consent form which shall be placed in the patient's medical record. The anesthesia consent form shall be in writing and include the following:

1. the owner or duly authorized agent has the authority to execute the consent;
2. the owner or duly authorized agent authorizes the performance of professionally accepted anesthetic procedures necessary for his animal's treatment;
3. the owner or duly authorized agent authorizes the performance of such procedures as are necessary and desirable in the exercise of the veterinarian's professional judgment;
4. the owner or duly authorized agent authorizes the use of appropriate anesthetics;
5. the owner or duly authorized agent has been advised as to the nature of the procedures and the risks involved in performing anesthesia to the animal and that results cannot be guaranteed;
6. the owner or duly authorized agent has read and understands this authorization and consent; and
7. the owner or duly authorized agent signs and dates the form.

C. Subsequent to general anesthesia in an emergency situation, a licensed veterinarian shall have the owner or duly authorized agent of the owner execute an anesthesia consent form which shall comply with the requirements set forth in section 1039.B above. A documented, good faith effort by the licensed veterinarian to obtain a signed anesthesia consent form shall be made within five days after the emergency anesthesia.

D. For purposes of sections 1039.B and C, a situation is an emergency when it is necessary to save an animal's life or relieve suffering by the provision of essential services.

E. Prior to the commencement of an euthanasia procedure, a licensed veterinarian shall meet personally with the owner or duly authorized agent of the owner and have

him execute a euthanasia consent form which shall be placed in the patient's medical record. The euthanasia consent form shall be in writing and include the following:

1. the owner or duly authorized agent has the authority to execute the consent;
2. the owner or duly authorized agent gives full and complete authority to euthanize and dispose of the animal in whatever manner the veterinarian deems appropriate;
3. that to the best of the owner or duly authorized agent's knowledge that animal has not bitten any person or animal during the last 15 days prior to presentation and has not been exposed to rabies;
4. that the owner or duly authorized agent understands euthanasia as personally explained by the veterinarian and gives permission to end the animal's life; and
5. the owner or duly authorized agent signs and dates the form.

F. The licensed veterinarian may address the issues of civil liability, payment arrangements and/or other issues of concern in the anesthesia consent form and/or euthanasia consent form, however, the inclusion of such issues are at the discretion of the licensed veterinarian and are not required by the board to be addressed in the forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:230 (March 1990), amended LR 27:

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 May 22, 2001. 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 May 29, 2001, at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Kimberly B. Barbier
Administrative Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Consent Forms

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 \$100 in fiscal year 2001 and \$100 in fiscal year 2002). 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 nongovernmental groups. Most veterinarians already use consent forms which may only have

to be updated. The requirement of personal consultations prior to euthanasia may require time management/appointment scheduling adjustments.

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
0104#022

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 and Community Based Services Waiver Program
Children's Choice Crisis Designation**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule implementing a Home and Community Based Services waiver called Children=s Choice effective January 15, 2001 (*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 Mentally Retarded/Developmentally Disabled (MR/DD) Waiver waiting list may choose to either apply for Children=s Choice or have the child remain on the MR/DD waiting list. Families are offered this choice in the order that the child=s name was added to the MR/DD waiver waiting list. A subsequent rule was adopted transferring responsibility for the waiting list to the Bureau of Community Supports and Services and setting forth provisions for the orderly transition from regional waiting lists to a single statewide request for services registry to be maintained in state office. The rule also changed the name of the waiting list to the MR/DD Waiver request for services registry (*Louisiana Register*, Volume 27, Number 2).

Children=s Choice is designed to provide an attractive alternative to the MR/DD waiver. Services are designed to allow greater flexibility to enhance family functioning. Another unique feature is portability of the child=s waiver slot: children who "age out" (reach their 19th birthday) will transfer with their waiver slot into a waiver that serves adults with developmental disabilities. In a continuing effort to address the concerns of families who will consider choosing Children=s Choice, the Department now proposes to adopt provisions for additional supports outside the \$7,500 cap on

waiver service expenditures should certain catastrophic events occur after a child has been found eligible for Children=s Choice. The Bureau now proposes to adopt a rule to continue the provisions contained in the January 15, 2001 emergency rule.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following regulations regarding crisis provisions for children who participate in Children=s Choice.

Families must choose to either accept Children=s Choice services or remain on the MR/DD Waiver request for services registry. This is an individual decision based on a family=s current circumstances. In the event that a family chooses Children=s Choice for their child and later experiences a crisis that increases the need for paid supports to a level that cannot be accommodated within the \$7,500 cap on waiver expenditures, they may request consideration for a crisis designation. A crisis is defined as a catastrophic change in circumstances rendering the natural and community support system unable to provide for the health and welfare of the child at the level of benefits offered under Children=s Choice. The following procedure has been developed to address these situations.

Crisis Designation Criteria

In order to be considered a crisis, one of the following circumstances must exist:

1. death of the caregiver with no other supports (i.e., other family) available; or
2. the caregiver is incapacitated with no other supports (i.e., other family) available; or
3. the child is committed to the custody of DHH by the court; or
4. other family crisis with no caregiver support available, such as abuse/neglect, or a second person in the household becomes disabled and must be cared for by same caregiver, causing inability of the natural caregiver to continue necessary supports to assure health and safety.

Provisions of a Crisis Designation

Additional services (crisis support) outside of the waiver cap amount may be approved by the Bureau of Community Supports and Services (BCSS) State Office. Crisis designation is time limited, depending on the anticipated duration of the causative event. Each request for crisis designation may be approved for a maximum of three months initially, and for subsequent periods of up to three months.

When the crisis designation is extended at the end of the initial duration (or at any time thereafter), the family may request the option of returning the child=s name to the original application date on the MR/DD Waiver request for services registry when it is determined that the loss of the caregiver and lack of natural or community supports will be long-term or permanent. This final determination will be made by BCSS. Eligibility and services through Children=s Choice shall continue as long as the child meets eligibility criteria.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. 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 provide additional support services if a catastrophic change renders the natural and community support system unable to provide for the health and welfare of the child at the level of benefits offered under Children=s Choice.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services,. Box 91030, Baton Rouge, Louisiana 70821-9030. She is responsible for responding to all inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, May 29, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community Based Services Waiver Program Children's Choice Crisis Designation

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 \$3,784 for SFY 2000-01, \$49,013 for SFY 2001-02, and \$84,154 for SFY 2002-03. It is anticipated that \$200 (\$100 SGF and \$100 FED) will be expended in SFY 2000-01 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 \$8,896 for SFY 2000-01, \$116,347 for SFY 2001-02 and \$199,766 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 provide payments to Medicaid providers of crisis support services of approximately \$12,480 for SFY 2000-01, \$165,360 for SFY 2001-02 and \$283,920 for SFY 2002-03. Children qualifying for crisis designation will receive additional supports outside the \$7,500 cap on waiver services should certain catastrophic events occur after the child has been found eligible for Children=s Choice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0104#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Rule No. 9—Pre-Licensing Requirements;
Education Advisory Council
(LAC 37:XI.Chapter 5)

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 and re-enact its existing Rule 9. This intended action complies with the statutory law administered by the Department of Insurance.

The proposed amendments are needed to make certain changes and to clarify current language. The proposed amendments affect the following sections of LAC 37:XI. 505, 507, 509, 511, 517, 527, and 529. In the past, the Rule, as published in the *Register*, showed the text of two forms labeled and referenced as Section 527, Appendix 1, and Section 529, Appendix 2, respectively. These forms were not originally intended to be part of the Rule proper and although repealed from the Rule's text, they will continue to be readily available to pre-licensing education providers through the Department of Insurance.

Title 37

INSURANCE

Part XI. Rules

Chapter 5. Rule Number 9 - Pre-Licensing Requirements; Education Advisory Council

§505. Effective Date

A. The original effective date of this rule was July 1, 1989. The re-promulgated rule shall become effective upon final publication in the *Louisiana Register*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:

§507. Course Requirements

A. Life, Health, and Accident

1. All applicants for life, health, and accident licenses as an agent are hereby required to complete a course of instruction with a minimum of 16 hours of supervised instruction in a structured setting. If applying for a combination life, health and accident license all applicants must complete the full 32 hours of life, health and accident instruction.

2. The curricula for the life instruction shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. life insurance basics;
- d. life insurance policies;
- e. life insurance policy provisions, options and riders;
- f. annuities;

g. federal tax considerations for life insurance and annuities;

h. qualified plans.

3. The curricula for the Health and Accident instruction shall include the following:

- a. insurance regulation;
- b. general insurance;
- c. health insurance basics;
- d. individual health insurance policy provisions;
- e. disability income and related insurance;
- f. medical expense plans;
- g. group health insurance;
- h. dental insurance;
- i. insurance for senior citizens and special needs individuals;
- j. federal tax considerations.

B. Property and Casualty

1. All applicants for property and casualty licenses as agent, broker, or solicitor are hereby required to complete a course of instruction with a minimum of 32 hours of supervised instruction in a structured setting.

2. The curricula shall include the following:

- a. insurance regulation;
- b. general insurance
- c. property and casualty insurance basics;
- d. dwelling policy (Louisiana specific);
- e. homeowners ('91) policy;
- f. auto insurance;
- g. commercial package policy;
- h. business owners ('89) policy;
- i. workers' compensation insurance;
- j. other coverage and options.

C. Satisfactory Completion of the Instructional Program. Upon completion of the prescribed course of instruction, the applicant shall be tested by the provider of the program.

D. Exemptions. The requirement for the completion of the instructional course does not apply to any applicant who is exempt from the requirement of an examination under R.S. 22:1167 or any applicant seeking authorization to write industrial fire insurance business only.

E. Concurrent Instructional Courses. When concurrent instructional courses for both life, accident, and health and property and casualty are conducted, the repetition of ethical practices and other topics which are redundant shall be waived. However, this does not reduce the minimum required hours of instructional training set forth by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:

§509. Provider Requirements

A. - A.2. ...

3. Completion of the Department's pre-licensing provider application, for the initial certification of director/supervising instructor to be used in accordance with the requirements and qualifications of instructors set forth herein.

A.4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:

§511. Instructor Qualifications

A. - A.4. ...

5. All instructors must possess the necessary qualifications to enable them to teach the program and to present the instructional material. Special consideration may be granted by the Commissioner or the Council with Commissioner's approval, where it is felt that the specific background of the instructor warrants such consideration. The qualifications for instructors shall include, as a minimum, the following:

a. for supervising instructors, five5 years of insurance and/or educational experience satisfactory to the commissioner and council;

5.b. ...

c. The Commissioner shall have the authority to waive this requirement after a public hearing to determine the applicant's qualifications has been held and findings of such hearing warrant such a waiver.

6. For all instructors, except those specified in §511.A.2, the supervising instructor shall obtain and submit a Pre-Licensing Instructor Application form for each instructor who will participate in the instructional course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:

§517. Course Completion

A. - B. ...

C. The provider must maintain computer records of course completion in a format compatible with Insurance Department specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:

§527. Appendix 1

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:

§529. Appendix 2

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1191.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 15:548 (July 1989), amended LR 20:1388 (December 1994), LR 27:

Family Impact Statement

The proposed amendments to Rule 9 should have no measurable impact upon the stability of the family. The proposed amendments to Rule 9 should have no impact upon the rights and authority of parents regarding the education and supervision of their children. The proposed amendments to Rule 9 should have no direct impact upon the functioning of the family. The proposed amendments to

Rule 9 should have no direct impact upon family earnings and budget. The proposed amendments to Rule 9 should have no impact upon the behavior and personal responsibility of children. The proposed amendments to Rule 9 should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

On May 28 2001, at 10 a.m., the Department of Insurance will hold a public hearing in the Plaza Hearing Room of the Insurance Building located at 950 N. 5th Street, Baton Rouge, Louisiana, 70804 to discuss the proposed amendments as set forth.

J. Robert Wooley
Acting Commissioner of Insurance

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Rule No. 9—Pre-Licensing Requirements; Education Advisory Council

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is not anticipated that the amendments to Rule 9 would result in any implementation costs or savings to local or state governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments to Rule 9 should have no effect on revenue collections of local or state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be some savings to persons seeking a life only license or an accident and health only license; they would be required to take only sixteen (16) hours of pre-licensing education as opposed to 32 hours required for a life, accident and health license or a property and casualty license. It is impossible to state how many persons would elect to have this more limited license, or what the cost of the pre-licensing courses would be. Course providers set their own prices for courses. DOI has no involvement in setting the prices for the pre-licensing courses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments to Rule 9 should have no impact on competition and employment.

Chad Brown
Deputy Commissioner
Management and Finance
0104#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Class V Motor Vehicle Waste Disposal Wells and Large-Capacity Cesspool Requirements (LAC 43:XVII.101, 105, 107, and 109)

The Louisiana Office of Conservation proposes to amend LAC 43:XVII.Chapter 1 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and pursuant to power delegated under the laws of the State

of Louisiana and particularly Title 30 of the Louisiana revised Statutes of 1950, Sections 30:4.C.(1), (2), (3), (6), (8), (9), (10), (14), (16) and I. This proposed rule primarily adds new requirements for Class V motor vehicle waste disposal wells and large-capacity cesspools. These revisions are mandated by the Environmental Protection Agency (EPA) underground injection control (UIC) program in 40 CFR Parts 9, 144, 145 and 146 as published on pages 68546 - 68573 of Vol. 64, No 234 of the Federal Register dated December 7, 1999. They also clarify requirements applicable to owners/operators of any type of Class V well. In particular, these amended rules prohibit the permitting and construction of new motor vehicle waste disposal wells and new large-capacity cesspools. They also require the permanent closure of any existing motor vehicle waste disposal wells and any existing large-capacity cesspools by January 1, 2005, and April 5, 2005, respectively. The proposed amendments also correct typographical and other errors contained within the existing Statewide Order No. 29-N-1 (LAC 43:XVII.Chapter 1).

Title 43

NATURAL RESOURCES

Part XVII. Office Of Conservation Injection and Mining

Subpart 1. Statewide Order No. 29-N-1

Chapter 1. Class I, III, IV and V Injection Wells

§101. Definitions

A. ...

* * *

Area of Review—the area surrounding an "injection well" as described in §109.A.2 for Class I and §109.B.2 for Class III.

* * *

Cesspool—a drywell that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

* * *

Drywell—a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

* * *

Improved Sinkhole—a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

* * *

Point of Injection—the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box - the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

* * *

Sanitary Waste—liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants,

bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.

Septic System—a well that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

Subsurface Fluid Distribution System—an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

Well—a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID and 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), Amended LR 12:26 (January 1986), LR 27:

§103. General Provisions

A. Applicability. These rules and regulations apply to all owners and operators of proposed and existing Class I, III, IV, and V injection wells in the State of Louisiana. For Class I wells, these rules shall only apply to nonhazardous waste disposal as described in §103.C.1.b. and c. below. Applicable rules for Class I hazardous waste disposal is in Statewide Order No. 29-N-2 (LAC 43:XVII.Chapter 2).

B. - B.1.b. ...

C. Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore. This classification of radioactive waste disposal wells does not affect the disposal of naturally occurring radioactive material (NORM) in Class II wells as part of oil and gas exploration and production operations. The injection of wastes associated with oil and natural gas exploration and production, including such wastes containing NORM, are regulated under the appropriate Class II regulations.

C.2. - 3.c. ...

4. Class IV

a. Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive wastes into a formation which within one-fourth mile of the well contains an underground source of drinking water. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

b. Wells used by generators of hazardous wastes or of radioactive wastes, by owners or operators of hazardous wastes management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous wastes or radioactive waste above a formation which within one-fourth mile of the well contains an underground source of drinking water. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

c. Wells used by generators of hazardous wastes or by owners or operators of hazardous waste management facilities, to dispose of hazardous wastes which cannot be classified under §103.C.1.a or 103.C.4.a and b (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to §103.H). This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

5. Class V. Injection wells not included in Class I, II, III, or IV. Typically, Class V wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids placed in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), the well is either a Class I or Class IV well. Class V wells include:

a. ...

b. large-capacity cesspools, including multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes have perforated sides (see §109.D.2). The UIC requirements do not apply to single family residential cesspools or to nonresidential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day;

c. - h. ...

i. septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank (see §103.C.6). The UIC requirements do not apply to single family residential septic system wells, or to nonresidential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day;

j. - k. ...

l. wells used for solution mining of conventional mines such as stopes leaching;

m. injection wells used for in situ recovery of lignite, coal, tar, sands, and oil shale;

n. wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts; and

o. injection wells used in experimental technologies.

p. motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels (MCLs) established by the primary drinking water regulations. These fluids also may include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, which pose risks to human health.

C.6. - 6.b. ...

c. any dug hole, drilled hole, or bored shaft which is not used for emplacement of fluids underground;

D. - E.1.b.ii. ...

iii. notwithstanding the requirements of clauses (i) and (ii) above, wells used to inject contaminated ground water that has been treated and is being injected into the same formation from which it was drawn are authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by appropriate state or federal agencies pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA).

c. Injection into Class V wells may be authorized by rule until requirements under future regulations become applicable to the specific type of Class V well. However, the owner or operator of a Class V well authorized by rule shall provide an inventory of the Class V well(s) to the Commissioner. At a minimum, the inventory shall include the following information for each Class V well:

- i. well and/or facility name and location;
- ii. name and address of legal contact;
- iii. ownership of well and/or facility;
- iv. date of well installation/completion;
- v. nature and type of injection well(s);
- vi. depth and operating status of injection well(s);

and

vii. any additional information required by the Commissioner.

d. Class V well authorization by rule shall expire upon the effective date of a permit issued pursuant to these rules or upon proper closure of the well.

e. An owner or operator of a Class V well which is authorized by rule is prohibited from injecting into the well:

- i. upon the effective date of an applicable permit denial;
- ii. upon failure to submit inventory information pursuant to §103.E.1.c. above;
- iii. upon failure to submit a permit application pursuant to §103.E.2.b. below; or
- iv. upon failure to comply with the Commissioner's request for any additional information.

E.2. - E.2.c. ...

d. A Class V well satisfying any of the requirements of clauses (i) through (iv) below is no longer authorized by rule; therefore, the owner or operator of the well shall apply for and obtain a UIC permit or permanently close the well:

i. the Class V well does not comply with the prohibition of fluid movement standard in §103.D;

ii. the Class V well is an existing large-capacity cesspool (in which case, the well shall be permanently closed by April 5, 2005) or an existing Class V motor vehicle waste disposal well (in which case, the well shall be permanently closed by January 1, 2005). These rules prohibit the permitting and construction start-up of new motor vehicle waste disposal wells and new large-capacity cesspools on and after April 5, 2000;

iii. the Commissioner specifically requires the Class V well be permitted (in which case, rule authorization expires upon the effective date of the permit, or you are prohibited from injecting into your well upon failure to submit a permit application in a timely manner as specified by the Commissioner; or upon the effective date of permit denial);

iv. the owner or operator of the Class V well failed to submit inventory information as described in §103.E.1.c (in which case, injection into the well is prohibited until the inventory requirements are met).

F. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID, 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), Amended LR 11:640 (June 1985), LR 27:

§105. Permit Application Requirements

A. Applicability. The rules and regulations of this Section apply to all Class I and III injection wells or project applications required to be filed with the Department of Natural Resources (Office of Conservation) for authorization under La. R.S. 1950 Title 30.

B. - H.1.b. ...

I. Filing Fee. Each application shall be accompanied by a per well, nonrefundable filing fee as required by Statewide Order No. 29-R-00/01 (LAC XIX.Chapter 7) or successor document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID, 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), LR 27:

§107. Legal Permit Conditions

A. - L.5. ...

6. Twenty-Four Hour Reporting

a. The permittee shall report to the Commissioner any noncompliance which may endanger health or the environment. Any information pertinent to the noncompliance shall be reported by telephone at (225) 342-5515 within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances and shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance.

L.6.b. - M.1. ...

2. The term of a permit shall not be extended by modification beyond the maximum duration specified in this Section, except as provided in §107.M.4 below.

3. ...

4. The conditions of an expired permit may continue in force until the effective date of a new permit if the permittee has submitted a timely and a complete application for a new permit, and the Commissioner, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (e.g., when issuance is impracticable due to time or resource constraints).

a. Permits continued under this Section remain fully effective and enforceable.

b. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Commissioner may choose to do any or all of the following:

i. initiate enforcement action based upon the permit which has been continued;

ii. issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

iii. issue a new permit under the requirements of these rules for issuing a new permit with appropriate conditions; or

iv. take other actions authorized by these regulations.

N. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:ID, 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), Amended LR 11:640 (June 1985), LR 27:

§109. Technical Criteria and Standards

A. - A.8.b. ...

i. Notification of Workover. The permittee shall notify the commissioner by telephone at (225) 342-5515 before commencing any workover operation which requires the use of a rig. In addition, the operator must obtain a work permit prior to any workover operation such as plug and abandon, deepen, perforate, squeeze, plugback, side-track, pull casing, pull tubing, or change zone of completion (disposal).

A.8.b.ii. - B.3. ...

a. Coverage. Applicants for class III injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone. For such wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water corrective action. Where the plan is adequate, the commissioner shall incorporate it into the permit as a condition. Where the Commissioner's review of an application indicates that the permittee's plan is inadequate (based on the factors in subparagraph c. below) the commissioner shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit or deny the application.

B.3.b. - D.1.b. ...

2. Large-Capacity Cesspools

a. The permitting and construction start-up of new or converted large-capacity cesspools are prohibited on and after April 5, 2000.

b. Existing large-capacity cesspools that were in operation or were under construction before April 5, 2000, shall be permanently close by April 5, 2005.

3. Motor Vehicle Waste Disposal Wells

a. The permitting and construction start-up of new or converted motor vehicle waste disposal wells are prohibited on and after April 5, 2000.

b. Existing motor vehicle waste disposal wells that were in operation or were under construction before April 5, 2000, shall be permanently closed by January 1, 2005.

4. Well Abandonment (Closure). Before permanently closing a Class V well, the owner or operator shall submit to the commissioner a plan detailing the method and procedure for closure. The commissioner may either approve the plan or require the applicant to revise the plan. The closure plan shall include conditions to ensure that permanent closure will comply with the prohibition of fluid movement standard in §103.D by not allowing the movement of additional fluids into an underground source of drinking water or from one USDW to another.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1D, 4C(16), and 4.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 8:83 (February 1982), Amended LR 11:640 (June 1985), Amended LR 12:26 (January 1986), LR 27:

All interested parties will be afforded the opportunity to submit date, views, or arguments, orally or in writing at said public hearing in accordance with R.S.49:953. Written comments will be accepted until 4:30 p.m., Thursday, June 7, 2001, at the Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275.

A public hearing will be held at 10 a.m., Thursday, May 30, 2001, in the Conservation Auditorium located on the first floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

Philip N. Asproditis
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Class V Motor Vehicle Waste Disposal Wells and Large-Capacity Cesspool Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No additional implementation costs (savings) to State or Local governmental units are anticipated to implement the proposed rule amendments to statewide Order No. 29-N-1 (LAC 43:XVII.Chapter 1).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no anticipated 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)

No costs and/or economic benefits are anticipated to directly affected persons or non-governmental groups. The types of disposal wells or activities that could be effected by the proposed rules are not known to exist in the State of Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James H. Welsh
Assistant commissioner
0104#0000

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Board of Private Investigator Examiners

Apprentice Licensing (LAC 46:LVII.512)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Louisiana Department of Public Safety and Corrections, Louisiana State Board of Private Investigator Examiners, hereby gives notice of its intent to amend Part LVII of Title 46, amending Chapter 5, Section 512.A to require that a licensed agency sponsoring an unlicensed individual for licensing as an apprentice must have its principal place of business in the State of Louisiana; and that the unlicensed individual being sponsored for apprentice licensing must be domiciled and reside in the State of Louisiana.

This rule and regulation is an amendment to the initial rules and regulations promulgated by the Louisiana State Board of Private Investigator Examiners.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LVII. Private Investigator Examiners

Chapter 5. Application, Licensing, Training, Registration and Fees

§512. Licensing of Apprentices.

A. A licensed agency with its principal place of business in the State of Louisiana and a previously unlicensed individual domiciled and residing in the State of Louisiana may apply for the licensing of the previously unlicensed individual as an apprentice as follows:

A.1. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(A)(3) and (B)(1); and R.S. 37:3514(A)(4)(a).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:459 (June 1996), amended LR 24:1769 (September 1998), LR 27:

Comments should be forwarded to Charlene Mora, Chairman, State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808. Written comments will be accepted through the close of business on May 10, 2001.

A copy of these rules may be obtained from the Louisiana State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, Louisiana 70808, telephone number (225) 763-3556.

Charlene Mora,
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Apprentice Licensing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation cost for this rule change. The rule limits those who will be allowed apprentice licenses to be persons or individuals who are residents and domiciliaries of

the State of Louisiana. It further limits the sponsoring agency for apprentice licensing to be an agency with its principal place of business in the State of Louisiana.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Board=s revenue collections may decrease by \$600 - \$1,000 per year. Currently, the apprentice license fee is \$50.00 for six months. There are currently 12 licensees with out of state residency or out of state companies. It is estimated that the proposed licensing limitation will decrease revenue by \$600.00 each six months. The rule would not take effect until the end of this 2001 calendar year. Therefore, the decrease for the 2001-2002 fiscal year would be only for one-half year (\$600.00) while the decrease for the 2002-2003 fiscal year is for a full year (\$1,200.00).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no significant cost or economic benefits to any persons or groups. Out of state individuals may still be licensed as private investigators although they will no longer be allowed apprentice licensing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no significant effect on competition or employment.

Celia R. Cangelosi
Attorney
0104#029

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Board of Private Investigator Examiners

Continuing Education (LAC 46:LVII.518)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:350B(1), the Department of Public Safety and Corrections, Board of Private Investigator Examiners, hereby gives notice of its intent to amend Part LVII of Title 46, amending Chapter 5, Section 518, to require licensees to attend eight hours of continuing education every two years (not each year as the current law requires) and to further only require renewal applications for even numbered years to show compliance with this continuing education requirement.

This rule and regulation is an amendment to the initial rules and regulations promulgated by the Board of Private Investigator Examiners.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LVII. Private Investigator Examiners

Chapter 5. Application; Licensing; Training; Registration and Fees

§518. Continuing Education

A. Each licensed private investigator is required to complete a minimum of eight hours of approved investigative educational instruction within the two-year period immediately prior to renewal in order to qualify for a renewal license in even numbered years.

B. Each licensed private investigator is required to complete and return the LSBPIE continuing education

compliance form with the request for license renewals in even numbered years. The form shall be signed under penalty of perjury and shall include documentation of each hour of approved investigation educational instruction completed.

C. Any licensee who wishes to apply for an extension of time to complete educational instruction requirements must submit a letter request setting forth reasons for the extension request to the Executive Director of the LSBPIE 30 days prior to license renewal. The training committee shall rule on each request. If an extension is granted, the investigator shall be granted 30 days to complete the required hours. Hours completed during a 30-day extension shall only apply to the previous two years.

D. These requirements become effective on January 1, 2002.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:371 (May 1996), amended LR 27:

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505B(1).

Comments should be forwarded to Charlene Mora, Chairman, State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808, telephone 225-763-3556.

A copy of these rules may be obtained from the Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808, telephone 225-763-3556.

Charlene Mora
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation cost for this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be economic benefit to individuals licensed by the Louisiana State Board of Private Investigator Examiners as the number of hours required of them for continuing education has been cut in half. Therefore, they will be expected to incur costs of approximately one-half of the previous costs they incurred for continuing education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Celia R. Cangelosi
Attorney
0103#016

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of the Secretary

Signature Alternatives; Electronic Filings
(LAC 61:I.4905)

Under the authority of R.S. 47:1520 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary, intends to amend LAC 61:I.4905 pertaining to tax return signature alternatives.

The department administers several electronic filing programs for the purpose of reducing the number of paper return filings. As the number of electronic filing programs continues to increase, it is the secretary's intention to have the alternative signature requirements apply to any tax.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4905. Signature Alternatives; Electronic Filings

A. ...

B. The following alternatives are allowed in lieu of submitting a written signature/declaration for tax returns transmitted electronically via any computer, telephone, or internet by the taxpayer or the taxpayer's agent:

1. the taxpayer's signature document maintained by the electronic filer on file and secured for a period of three years from December 31 of the year in which the taxes were due;

2. the taxpayer's signature on a trading partner agreement with the department;

3. a Personal Identification Number (PIN); or

4. an electronic signature as specified in a filing agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 22:35 (January 1996), amended by the Department of Revenue, Office of the Secretary, LR 23:1167 (September 1997), LR 25:3443 (December 1999), LR 27:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Susan Louise Dunham, Assistant Secretary, Office of Legal Affairs, 330 North Ardenwood Drive, Baton Rouge, LA 70806 or by fax to (225) 925-6612. All comments must be submitted by 4:30 p.m., Tuesday, May 29, 2001. A public hearing will be held on Wednesday, May 30, 2001, at 1 p.m. in the Secretary's Conference Room on the second floor of 330 North Ardenwood Drive, Baton Rouge, LA.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Signature Alternatives; Electronic Filings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department administers several electronic filing programs for the purpose of reducing the number of paper return filings. These proposed amendments remove reference to a specific tax or type of tax and instead simply state the acceptable signature alternatives approved by the Secretary. This will allow for the continued expansion of the programs without necessity of adjusting the rule with each new application.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Taxpayers who file their tax returns electronically via on-line transmission using a personal computer should save the cost of mailing a signature document to the Department. There should be no effect on the costs for taxpayers who telefile their tax returns.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0103#006

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Teen Pregnancy Prevention Program (LAC 67:III.Chapter 54)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to a directive of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act, the Department of Social Services, Office of Family Support, hereby intends to formally establish the goals, activities, and operations of the Teen Pregnancy Prevention Program.

Since families with teenage mothers are likely to receive assistance for a long period of time, it was critical that welfare reform address the problem of teenage pregnancy effectively. The Department of Social Services received federal funds in September 1998 to initiate a campaign to reduce the number of pregnancies and out-of-wedlock births in the teenage population. This campaign has operated as an initiative for several years, and the agency now proposes to establish the Teen Pregnancy Prevention Program as a permanent program within the Office of Family Support. Annual funding is provided by the Temporary Assistance For Needy Families (TANF) Block Grant to Louisiana.

The purpose of the program is to reduce the number of unwed teenage pregnancies through effective community, faith-based, and school-based programs and to promote public awareness of the problem.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 14. Teen Pregnancy Prevention

Chapter 54. Teen Pregnancy Prevention Program

§5401. Authority

A. The Teen Pregnancy Prevention Program shall be administered under the authority of state and federal laws. In Louisiana, the program operates under the name *Keeping It R.E.A.L. (Reality Education About Life)*.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5403. Strategy

A. As lead agency, the Office of Family Support (OFS) will reduce the number of unwed pregnant and parenting teens through the implementation of comprehensive and effective community, faith-based, and school-based programs, and public awareness efforts. The following strategies will be used to accomplish this mission:

1. selecting programs developed around criteria that reflect success in curbing teen pregnancy as demonstrated in current research;

2. involving and embracing all segments of the community in the development of those programs, including teens, parents, neighborhoods, educators, and businesses; and

3. ensuring that the programs are goal oriented and able to document success through a strong independent research and evaluation component as outlined below.

B. Success measures in curbing the teen birth rate include:

1. delaying sexual experience (debut);
2. reducing the incidents of pregnancy, number of repeat pregnancies, and the number of out-of-wedlock births; and
3. increasing the number of parenting teens who complete high school and the employability of parenting teens and/or at-risk youth.

C. There are three target groups involved in reducing teen pregnancy:

1. 11-19 year old students and non-students;
2. teen parents; and
3. the adult parents/caretakers of the teens.

D. Research shows that a holistic approach, involving all aspects of the community working together, may lead to a reduction in the teen pregnancy rate.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5405. Goals and Objectives

A. The program objective is to create community, faith- and school-based programs which will present age-appropriate educational material to a targeted population ranging in age from 11-19 years. This includes middle, high school, and college students and others in this age group who are no longer in school. All services are provided by contracted providers.

B. To reduce the number of births, intermediate goals are established according to age groups.

1. For the adolescents aged 11-13 (middle school grades 6-8), the following intermediate goals have been set:

- a. postpone sexual debut;
- b. reduce school suspension/expulsion rate;
- c. increase school attendance;
- d. increase parental involvement; and
- e. increase the number of males involved in positive male mentoring/manhood development programs.

2. For teenagers aged 14-16 (early high school), the following intermediate goals have been set:

- a. postpone sexual debut;
- b. reduce unprotected sex;
- c. increase high school/GED graduation rates;
- d. reduce STD (sexually-transmitted disease) and HIV rates;

e. reduce school suspension/expulsion rate;

f. increase parental involvement; and

g. increase the number of males involved in positive male mentoring/manhood development programs.

3. For teenagers aged 17-19 (upper high school, college, non-students, current teen parents), the same goals in §5405.B.2 will apply with the addition of the following:

- a. increase job training and employment;
- b. increase parenting skills training; and
- c. increase the number of males involved in positive male mentoring/manhood development programs with an emphasis on responsible fatherhood.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

§5407. Program Activities

A. The following program activities shall be used to coordinate the teen-oriented programs in Louisiana. These activities allow for expanding, redeveloping, and refining of these programs to ensure that the goals and objectives will be met:

1. Youth Development;
2. Comprehensive Health/Family Life;
3. Parental Involvement;
4. Counseling;
5. Male Involvement;
6. Media;
7. Evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:

Family Impact Statement

1. What effect will this rule have on the stability of the family? Implementation of the Teen Pregnancy Prevention Program (Keeping It R.E.A.L.) could have a positive impact on the stability of the family by decreasing the number of teenage pregnancies, increasing parental involvement with the child, and increasing the educational levels, training, and employability of teenage parents.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have little effect on parental authority: the advertising campaign is "reinforcement" and the active participation of teens in a provider program requires parental consent.

3. What effect will this have on the functioning of the family? This rule could have a positive impact on the functioning of the family by reducing the emotional and financial strain that may occur as a result of a teenage pregnancy.

4. What effect will this have on family earnings and family budget? Although this program does not provide direct cash benefits to the family, it could have a positive impact on the family's budget and earnings secondary to the increased education level, training, and employability of teens as well as the decreased birth rate.

5. What effect will this have on the behavior and personal responsibility of children? The primary focus of this program is to positively impact the behavior and personal responsibility of teens.

6. Is the family or local government able to perform the function as contained in this proposed rule? Although the family (parents) should be the primary teacher, the program aims to reinforce values and practices, and/or to actually assist the family when consent is given for active participation.

Interested persons may submit written comments by May 29, 2001 to Ms. Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She will be the responding authority to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on May 29, 2001 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA 70802 at 9:00 a.m. All interested persons will be

afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Teen Pregnancy Prevention Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no costs or savings to state or local governmental units.

The minimal implementation cost of publishing the rule is included in the agency's annual budget. Current and projected annual costs for the Teen Pregnancy Prevention Program as an initiative are estimated to be \$4,924,609 each fiscal year, and these costs will continue to be paid from the federal TANF (Temporary Assistance for Needy Families) Block Grant to Louisiana. This cost includes a Program Coordinator position, public relations media campaign, independent evaluation contractor, and at least 48 program provider groups throughout the state.

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 estimated costs to any persons or non-governmental groups. A long-term objective of the program is that the targeted groups will benefit economically if goals are met. If individuals in these groups can improve their economic position, then their families, and the agencies which otherwise might have to assist them, will spend less on those individuals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has some impact on competition since a number of groups are contracted to perform functions of the program. Monitoring will determine effectiveness which could result in further competition among various community, faith- and school-based programs. The proposed rule will also impact employment since most of the provider groups employ at least one additional staff member.

J. Renea Austin-Duffin
Secretary
0104#021

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Professional Engineering and Land Surveying Board

Board Revisions (LAC 46:LXI.101-3301)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering

and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.Chapters 1-33.

The amendments are primarily housekeeping revisions of existing board rules and were necessitated by the passage of Acts 1999, Nos. 329, 396 and 397, which were housekeeping revisions of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq. The amendments restructure and renumber many sections of the existing board rules, while repealing other sections. By virtue of these amendments, the following sections of the existing board rules are being repealed: §§301-311; §§501-509; §902; §911; §§2001-2021; §§2105-2109; and §§2703-2729.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 1. General Provisions

§101. Evidence of Qualification; Licensure

A. In order to safeguard life, health and property, and to promote the public welfare, any person in either public or private capacity, or foreign or domestic corporation, practicing or offering to practice professional engineering or professional land surveying, shall be required to submit evidence that he/she is qualified to so practice and shall be licensed with the board. Unless specifically exempted by law, it shall be unlawful for any person to practice or to offer to practice in this state, engineering or land surveying, as defined in the licensure law and the rules of the board, or to use in connection with his/her name or otherwise assume, use or advertise any title or description tending to convey the impression that he/she is a professional engineer or a professional land surveyor, unless such person has been duly licensed under the provisions of the licensure law and the rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:643 (December 1981), amended LR 27:

§103. Rulemaking

A. Under the provisions of R.S. 37:688 the board has the authority to make, adopt, alter, amend, and promulgate rules consistent with the constitution and laws of this state. This is necessary for the proper performance of the duties of the board and the regulations of the proceedings before it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:643 (December 1981), amended LR 27:

§105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise:

Act or Licensure Law—R.S. 37:681-37:703, including any amendments thereto. This law empowers the board to regulate the practice of engineering and land surveying in the state of Louisiana.

Benefits of Any Substantial Nature or Significant Gratuities—as used in the rules of professional conduct, shall mean any acts, articles, money or other material possessions which are of such value or proportion that their acceptance could reasonably be expected to create an obligation on the part of the receivers, or otherwise compromise their ability to exercise their own judgement, without regard to such benefit or gratuity.

Bona Fide Employee—a person in the service of a licensee under a contract of hire, expressed or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed and the employer pays wages or a salary directly to the employee, pays a share of social security and federal unemployment tax, withholds federal income tax and the employee's share of social security payments, provides training, furnishes tools and materials, and sets hours of work. Generally such employees work full time for the employer, perform work at a location assigned by the employer and do not offer their services to the general public.

Bona Fide Established Commercial Marketing Agency—a business which is specifically devoted to public relations, advertising and promoting the services of a client, and which may be appropriately licensed as required by state statutes.

EAC/ABET—the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

Employees—for purposes of R.S. 37:701(C) only, shall mean:

a. any and all persons to or for whom a person, firm or corporation engaged in industrial operations pays salary or other compensation, withholds taxes, provides benefits or pays workers' compensation and/or liability insurance, including without limitation all persons covered by the definition of *bona fide employee* as set forth in the rules of the board; or

b. any and all persons whose conduct a person, firm or corporation engaged in industrial operations has the right to control, including the right to hire, fire or directly supervise, the right to set the person's work schedule and job duties, or the right to set the terms and conditions of employment, including without limitation individuals supplied through an employment agency or consultant firm.

Fraud, Deceit or Misrepresentation—intentional deception to secure gain, through attempts to deliberately conceal, mislead, or misrepresent the truth with the intent to have others take some action relying thereupon, or any act which provides incorrect, false, or misleading information, upon which others might rely.

Incompetency—the practice of engineering or land surveying by a licensee who is either incapable of exercising ordinary care and diligence or who lacks the ability and skill necessary to properly perform the duty he/she undertakes. (The practice of engineering in an area other than that in which the licensee has been issued a certificate will not be considered as evidence of incompetency, provided the licensee is otherwise qualified by education or experience.) Examples of practice which the board may consider to constitute incompetency include but are not limited to:

a. the undertaking of assignments other than those for which the licensee is qualified by education or experience in the specific technical fields involved; and

b. the affixing of the licensee's signature or seal to any engineering or land surveying plan or document dealing with the subject matter in which the licensee lacks competence by virtue of education or experience.

Misconduct—as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee who performs any acts, causes omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the professions of engineering or land surveying. Misconduct as used herein shall also include any act or practice in violation of the board's rules of professional conduct or use of seals.

NCEES Model Law Engineer—a person who meets the minimum requirements of licensure law and:

a. is a graduate of an engineering curriculum accredited by EAC/ABET, or the equivalent;

b. has passed the fundamentals of engineering examination using the NCEES cut score;

c. has a specific record of an additional four years of progressive experience on engineering projects following graduation;

d. has passed the principles and practice of engineering examination using the NCEES cut score; and

e. has a current NCEES Record on file.

NCEES Model Law Surveyor—a person who meets the minimum requirements of this act and is a graduate of an EAC/ABET engineering curriculum, RAC/ABET curriculum, or the equivalent.

Negligence—the practice of engineering or land surveying by a licensee characterized by his/her lack of reasonable care, precaution, or attention to the right, safety, or welfare of others, which could result in injury or damage to life or property or financial loss. Examples of practice which the board may consider to constitute negligence include, but are not limited to:

a. The preparation of an incomplete or inaccurate engineering or land surveying plan or document that is below acceptable standards, which is released for construction or other lawful purposes, and which could result in financial loss or injury.

b. Failure of the licensee to exercise reasonable diligence and care in providing professional services, which could result in financial loss or damage or injury.

Practice of Engineering—

a. Practice of engineering is defined in R.S. 37:682. The board recognizes in the design of buildings and similar structures that there is overlap between the work of architects and engineers. It is recognized that an architect who has complied with all of the current laws of Louisiana relating to the practice of architecture has a right to engage in some activities properly classifiable as professional engineering insofar as it is necessarily incidental to his/her work as an architect. Likewise, it is recognized that the professional engineer who has complied with all of the current laws of Louisiana and is properly licensed has the right to engage in some activities properly classifiable as

architecture insofar as it is necessarily incidental to his/her work as an engineer. Furthermore, the architect or the professional engineer, as the case may be, shall assume all responsibility for compliance with all the laws or ordinances relating to the designs or projects in which he/she may be engaged.

b. Teaching of engineering design and the responsible charge of the teaching of engineering design shall be considered as the practice of engineering. Associate professors and those of higher rank teaching engineering design courses who were employed by a college or university in the state of Louisiana on January 1, 1991, or thereafter, shall be professional engineers licensed by the Louisiana board. Such professors who become employed on or after January 1, 1991 shall have a period of two years in which to become licensed. The associate professors and those of higher rank teaching engineering design courses in the employ of a college or university in the state of Louisiana prior to January 1, 1991 are exempt from professional engineering licensure as long as they remain in continuous employment by a College or School of Engineering in the state of Louisiana. Those persons who are exempt from professional engineering licensure are exempt only for the purpose of the teaching of engineering design and may not present themselves to the public as engineers or professional engineers or provide or offer to provide engineering services as defined by R.S. 37:682.

Practice of Land Surveying—defined in R.S. 37:682. The board recognizes that there exists a close relationship between land surveying and some areas of engineering, with some activities common to both professions; however, survey work related to property boundaries must be performed under the responsible charge of a professional land surveyor. Presented below are guidelines which shall be used as an aid in determining the types of surveying services which may be rendered by professional land surveyors or professional engineers.

a. Surveying and mapping functions which require the establishment of relationships to property ownership boundaries are unique to land surveying and must be performed by or under the responsible charge of a professional land surveyor. These functions include:

- i. boundary surveys;
- ii. subdivision surveys and plats;
- iii. public land surveys.

b. Surveying and mapping functions not unique to land surveying must be performed by or under the responsible charge of a professional land surveyor whenever they require the establishment of the relationship of property ownership boundaries. Those functions include:

- i. surveys of servitudes (easements) and rights of way;
- ii. surveys of leases;
- iii. topographical surveys;
- iv. surveys for record;
- v. layout surveys for construction;
- vi. hydrographic surveys;
- vii. mine surveys;
- viii. mapping.

c. Surveying and mapping functions which do not require the establishment of the relationship of property ownership boundaries may be performed by or under the

responsible charge of either a professional engineer or a professional land surveyor. Such surveying and mapping functions include:

- i. surveys of servitudes (easements) and rights of way;
- ii. surveys of leases;
- iii. topographical surveys;
- iv. surveys for record drawing;
- v. layout surveys for construction;
- vi. hydrographic surveys;
- vii. mine surveys;
- viii. mapping;
- ix. geodetic surveys;
- x. cartographic surveys;
- xi. horizontal and vertical control surveys;
- xii. quantity and measurement surveys;
- xiii. profiles and cross sections;
- xiv. site grading plans.

All of the above type surveys (c.i.-xiv), regardless of the method by which they are performed, including photogrammetric methods, must be performed by or under the responsible charge of a professional land surveyor or a professional engineer.

d. Professional services which require the application of engineering principles and the interpretation of engineering data must be performed by or under the responsible charge of a professional engineer.

Responsible Charge—defined in R.S. 37:682. It shall mean the direct control and personal supervision of engineering work or land surveying, as the case may be.

Seal—a symbol, image, or list of information that may be found in the form of a rubber stamp, computer generated data, or other form found acceptable to the board this is applied or attached to the document in a manner consistent with the board rules on use of seals.

Signature—handwritten or digital as follows:

- a. a handwritten message identification containing the name of the person who applied it; or
- b. a digital signature which is an electronic authentication process attached to or logically associated with an electronic document. The digital signature must be:
 - i. unique to the person using it;
 - ii. capable of verification;
 - iii. under the sole control of the person using it;

and

- iv. linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

c. a digital signature that uses a process approved by the board will be presumed to meet the criteria set forth in Subsection b. of this definition.

Under the Supervision and Charge of a Professional Engineer—as it applies in R.S. 37:701(C) only, shall mean:

- a. the work performed by a professional engineer, duly licensed under the provisions of this Chapter; or
- b. the work reviewed and approved by a professional engineer, duly licensed under the provisions of this Chapter, who is authorized to direct changes to the engineering work; or
- c. the work performed in accordance with a system of engineering practices approved by a professional engineer, duly licensed under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), LR 27:

Chapter 3. Organization of the Board

§301. Engineer-in-Training Certification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), repealed LR 27:

§303. Land Surveyor-in-Training Certification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:90 (February 1984), LR 16:773 (September 1990), repealed LR 27:

§305. Professional Engineer Registration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:350, 352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644-45 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), repealed LR 27:

§307. ReciprocityXEngineering

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 7:645 (December 1981), repealed LR 27:

§309. Temporary Permit to Practice Engineering

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:286 (April 1996), repealed, LR 27:

§311. Land Surveyor Registration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:351 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), repealed LR 27:

Chapter 5. Administration

§501. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:116 (May 1979), LR 8:191 (April 1982), LR 16:774 (September 1990), repealed LR 27:

§505. Supervising Professional

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:116 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), repealed LR 27:

§507. Professional Identification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:116 (May 1979), amended LR 8:191 (April 1982), repealed LR 27:

§509. Enforcement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:503 (December 1977), amended LR 5:117 (May 1979), LR 8:191 (April 1982), LR 19:57 (January 1993), repealed LR 27:

Chapter 7. Bylaws

§701. Board Nominations

A. The following guidelines and procedures will be observed in order that timely and prudent advice can be given to the Louisiana Engineering Society and the Louisiana Society of Professional Surveyors with regard to nominees for vacancies on the board.

B. The division of engineering practice classification of each board member shall remain unchanged during each administrative year.

1. Professional engineer board members shall continue to represent the practice area of engineering for which appointed, unless formal advice has been received from the Louisiana Engineering Society that the practice area of engineering classification of a member has been changed.

2. Board members who retire from active practice shall continue to represent the practice area of engineering for which appointed and currently serving at the time of retirement.

3. If a board member is not a member of the Louisiana Engineering Society or the Louisiana Society of Professional Surveyors, it shall be his duty to notify the executive secretary of any significant change in his regular employment; the executive secretary shall so advise the Louisiana Engineering Society or the Louisiana Society of Professional Surveyors for its action.

C. An examination will be made of the anticipated vacancies scheduled to occur during each new administrative

year because of expiration of terms of appointment, as published in the roster, and the appropriate nominating organization shall be soon notified, along with the official interpretation of the practice areas of engineering represented, as well as a priority listing of the desired practice areas requested to be considered.

D. In the event of death or resignation of a board member, the executive secretary shall immediately notify the appropriate nominating organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 5:120 (May 1979), LR 11:1182 (December 1985), LR 19:56 (January 1993), LR 27:

§703. Compensation and Expenses

A. Authority to Incur Traveling Expenses

1. The board shall allow its members actual traveling expenses plus per diem to attend regular, special and committee meetings of the board. Per diem for the time spent traveling and for time spent at the meeting shall be allowed. The per diem allowance for time spent traveling shall not exceed two days for these meetings.

2. The board may, by resolution at one of its meetings, authorize any of its members or representatives to travel at the expense of the board to attend meetings and conventions such as those of the National Council of Examiners for Engineering and Surveying (NCEES), the Accreditation Board for Engineering and Technology (ABET), or other allied organizations. Per diem for time spent traveling and for time spent at the meeting will be allowed.

B. Reimbursement of Transportation Expenses

1. Expenses for transportation by personally owned vehicles shall be reimbursed at the mileage rate specified by the board at a regular meeting. Reimbursement shall be on the basis of the most direct route. The traveler shall be required to pay all of the operating expenses of the vehicle.

2. Air travel will be by coach or economy class rates when available. Travel by state plane is also permitted. Reimbursement will be limited to comparable coach or economy class rates. Receipts or other verification of travel shall be attached to the expense report. Reimbursement will be on the basis of the most direct route available. Air travel by private aircraft may be approved by the board. When so approved, reimbursement will be on the basis of coach airfare.

C. Lodging and Meals. The board shall allow its members to be reimbursed actual expenses for meals (including tips) and for lodging at a single occupancy rate. Receipts for lodging shall be submitted and attached to the travel voucher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 19:55 (January 1993), LR 27:

§705. Meetings

A. Regular Meetings. The board shall hold at least four regular meetings each year.

B. Annual Meetings. The first regular meeting of the fiscal year is to be held in July, and shall be designated as the annual meeting.

C. Special Meetings. The chairman or the secretary may call special meetings when considered necessary. Upon written request of six board members, the chairman is required to call a special meeting.

D. Open Meetings. Every meeting of the board shall be open to the public, unless closed as an executive session.

E. Meeting Dates. Written public notice of the dates, times, and places of all regular meetings shall be given at the beginning of each fiscal year.

F. Separate Notice of all Meetings. In addition, separate written public notice of any regular, special, or rescheduled meeting shall be given no later than 24 hours before the holding of the meeting. This separate notice shall include the agenda, date, time and place of the meeting.

G. Posting of Notice. The public notice discussed in §705.E and F shall include:

1. posting a copy of the notice at the office of the board; or

2. publication of the notice in the board newsletter no less than 24 hours before the meeting.

H. Notice to Board Members. Notice of all meetings, in conformity with §705.E and F shall be given in writing to each member by the secretary.

I. Quorum. A simple majority of board members shall constitute a quorum for the transaction of business.

J. *Roberts Rules of Order*. *Roberts Rules of Order* shall govern the proceedings of the board at all meetings, except as otherwise provided herein or by statute.

K. Location of Meetings. All meetings shall be held at the board office, unless, in the judgment of the chairman, it is necessary or convenient to meet elsewhere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1181 (December 1985), LR 19:55 (January 1993), LR 21:1354 (December 1995), LR 27:

§707. Board Organization

A. Number of Board Members. The board shall be comprised of 11 members, each of whom shall be appointed by the governor in accordance with the requirements established by law.

B. Board Officers. The board shall elect annually from its membership the following officers: a chairman, a vice chairman, a secretary, and a treasurer.

C. Date of Elections. The election of board officers shall take place not later than at the board's May meeting. In the event that an officer cannot complete his/her term, an election in order to fill the unexpired term shall be scheduled at the earliest practical regular or special meeting.

D. Duties

1. Chairman. The chairman shall preside at all meetings, appoint all committees, except as otherwise

provided, and shall, together with the secretary, sign all certificates issued by the board. The chairman shall compile the agenda for each regular and special meeting.

2. Vice Chairman. The vice chairman shall, in the absence of the chairman, perform the duties of and possess all of the powers of the chairman. Should the chairman's membership on the board be terminated prior to the election of his/her successor, the vice chairman shall automatically assume the duties of chairman until the board is re-organized.

3. Secretary. The secretary shall:

a. be the official custodian of the records of the board and of the seal of the board and see that the seal of the board is affixed to all appropriate documents;

b. sign, with the chairman, certificates of licensure, the issuance of which shall have been authorized by resolution of the board;

c. assume all responsibilities of the executive secretary, in the event of the absence or incapacity of the executive secretary;

d. sign the minutes of the board meetings after approval of the minutes by the board.

4. Treasurer. The treasurer shall be responsible for the annual budget and the annual audit of the board. He/she shall send copies of the annual audit and the financial statement to the governor after the report of the audit has been reviewed by the board. The treasurer, with the approval of the chairman, shall be empowered to authorize expenditures of funds, in the beneficial interest of the board and without its prior approval, up to an aggregated amount of \$5,000 (within the current budget), and any expenditures made under this authorization shall be reported to and ratified by the board at its next regular meeting.

E. Committees. The board may establish the following committees: Executive Committee, Civil Engineering Committee, Other Disciplines Engineering Committee, Land Surveying Committee, Engineer Intern Committee, Liaison and Law Review Committee, Engineering Curricula Committee, Finance Committee, Nominations Committee, and Complaint Review Committee.

1. Power to Appoint. Unless otherwise provided below, the chairman of the board shall have the power to make all committee appointments. All committee appointments shall be effective from date of appointment until the next annual meeting of the board.

2. Executive Committee. The chairman, vice chairman, secretary, and treasurer shall constitute the Executive Committee. The chairman of the board shall serve as chairman of the Executive Committee. The Executive Committee shall oversee the operations of the office of the board and shall advise the executive secretary as to the conduct of the business of the board between meetings. The Executive Committee shall make recommendations to the board with respect to personnel, policies and procedures.

3. Engineering Committees

a. The chairman of the board may appoint one or more engineering committees, with not less than two members on each committee.

b. Each of these committees shall:

i. review applications for licensure in each respective discipline of professional engineering;

ii. recommend approval or disapproval of applications; and

iii. supervise the selection of examinations on principles and practice of engineering for the respective disciplines.

4. Land Surveying Committee. The chairman of the board may appoint not less than two members to the Land Surveying Committee. All members of the Land Surveying Committee shall be professional land surveyors. The Land Surveying Committee shall:

a. review applications for licensure as a professional land surveyor;

b. review applications for certification of persons as a land surveyor intern;

c. conduct oral examinations or interviews;

d. supervise the selection of examinations on the fundamentals of land surveying, on principles and practice of land surveying, and on the Louisiana laws of land surveying;

e. recommend passing scores for their respective written examinations; and

f. evaluate and recommend land surveying curricula acceptable to the board.

5. Engineer Intern Committee. The chairman of the board may appoint an Engineer Intern Committee which shall review all applications for the examination in fundamental engineering subjects and all requests for certification of persons as engineer interns and shall make recommendations for action by the board.

6. Liaison and Law Review Committee. The chairman of the board may appoint a Liaison and Law Review Committee to work with similar committees of professional and technical organizations on matters of mutual concern. The committee shall make recommendations to the board in matters concerned with the licensure law and the rules and regulations of the board.

7. Engineering Curricula Committee. The chairman of the board may appoint an Engineering Curricula Committee to evaluate and make recommendations to the board concerning the quality of the engineering curricula, along with evaluation of the faculties and facilities of schools within the state of Louisiana. The Engineering Curricula Committee shall have the power to make inspections in the course of its evaluations. The committee chairman shall coordinate the selection of board observers for all ABET visitations in the state.

8. Finance Committee. The chairman of the board may appoint a Finance Committee composed of not less than two board members. The treasurer will serve as the chairman of this committee. It will be the responsibility of the committee to make studies, reports and recommendations to the board on fiscal matters. At the end of the fiscal year, the Finance Committee shall review the annual audit and prepare a budget for presentation to the board at the September meeting.

9. Nominations Committee. The chairman of the board may appoint a Nominations Committee composed of not less than two members. It shall be the duty of this committee to present to the board a list of nominations for election of officers.

10. Complaint Review Committee. The Complaint Review Committee may be composed of two standing

members, the executive secretary, board attorney and one board member appointed on a case-by-case basis. It shall be the responsibility of the committee to review the results of investigations of complaints against licensees and unlicensed persons and recommend appropriate action to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1179-80 (December 1985), LR 19:54 (January 1993), LR 21:1353-54 (December 1995), LR 27:

§709. The Executive Secretary

A. Appointment. The board shall appoint an executive secretary, who shall assist the board members in the performance of their duties.

B. Ex-Officio Committee Member. Although not a member of the board, the executive secretary shall be an ex-officio member of all committees.

C. Duties of the Executive Secretary. The executive secretary shall:

1. conduct and care for all correspondence in the name of the board;
2. record and file all applications, examinations, licensure, suspensions and revocations;
3. send members of the board notices of all regular meetings at least 10 days in advance thereof;
4. keep correct minutes of all meetings of the board, including a record of all certificates of licensure issued;
5. examine all applications for licensure and bring about the necessary correction or supplying of missing or essential data in connection with such applications prior to consideration thereof by the board;
6. address inquiries to references to verify the qualifications, experience and character of applicants as directed by the board;
7. make arrangements as required by the board for all written or oral examinations and interviews of applicants;
8. supervise the administration of the written examinations;
9. present to the board the results of examinations and other evidence of qualification;
10. have certificates of licensure prepared for those applicants who have been approved for licensure or certification by the board;
11. notify by letter to the last known address, every person and entity licensed or certified under the licensure laws of the date of the expiration of the certificate and the amount of the fee that shall be required for its renewal;
12. develop procedures and internal policies for all administrative functions;
13. employ and supervise the work of all investigators and secretarial, stenographic, clerical, and technical assistants essential to the work of the board, but only on approval of the Executive Committee and in accordance with the provisions of the licensure law;
14. investigate and dispose of allegations and apparent violations of the licensure law when possible and refer any such matters requiring formal action to the board;
15. assist the board in the adoption and amendment of rules and bylaws in accordance with the statutes;

16. represent the board at meetings of technical and professional societies and appear before student groups and legislative committee meetings;

17. write articles for publication to inform licensees and the public of activities and actions of the board;

18. be an associate member of the National Council of Examiners for Engineering and Surveying (NCEES);

19. assist the Finance Committee in the preparation of the budget;

20. assist in ensuring that expenditures are within the budget;

21. receive and account for all monies derived from the operation of the board;

22. comply with R.S. 37:690 in all matters relating to receipts and disbursements;

23. audit all bills and accounts covering expenditures and prepare all vouchers and checks for payment of approved bills;

24. keep a register of receipts and expenditures, maintaining such financial books, and show the financial condition of the board and the validity of the licenses and of the certificates which have been issued; and

25. assist in the legislative audit made of all receipts and disbursements at the close of each fiscal year (June 30) by a certified public accountant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1180 (December 1985), LR 19:55 (January 1993), LR 21:1354 (December 1995), LR 27:

§711. Domicile

A. Domicile. The domicile of the board shall be the City of Baton Rouge, Louisiana.

B. Change of Domicile. The board may vote to change its domicile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:117 (May 1979), LR 11:1179 (December 1985), LR 21:1353 (December 1995), LR 27:

§713. Amendments to Bylaws

A. The bylaws of the board may be amended at any regular or special meeting, provided, however, that such proposed amendments have been submitted in writing to the members of the board at least 30 days prior to the meeting. The board may waive this 30-day provision at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1183 (December 1985), LR 27:

§715. Rulemaking Process

A. Power to Promulgate Rules. Under the provision of the licensure law, the board is given the power to make and promulgate rules and regulations necessary for the proper performance of its duties.

B. Proposal of Rule Change. Any board member may propose the adoption of a new rule or regulation, or the amendment or revocation of an existing rule or regulation.

C. Requirements of Proposal. Such proposal shall:

1. be in writing;
2. include a draft of the requested change or changes; and
3. be sent to the chairman and the executive secretary at least 30 days before the next regular meeting of the board.

D. Copies of Proposal. The executive secretary shall send copies of the proposal to all board members at least 10 days before the next regular meeting of the board.

E. Notice of Proposal. The chairman shall place the proposed change, amendment, or revocation on the agenda for the next regular meeting scheduled after receipt of the proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 27:

§717. Disbursements

A. Check Requirement. All disbursements over the amount of \$50 shall be made by check.

B. Line Item Restrictions. Annual disbursements shall not exceed current budget line items.

C. Required Signatures on Checks. All checks must be signed by any two of the following individuals:

1. chairman;
2. vice chairman;
3. secretary;
4. treasurer;
5. executive secretary;
6. deputy executive secretary; or
7. any board member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 21:1355 (December 1995), LR 27:

§719. Minutes

A. Requirement of Keeping Minutes. The board shall keep written minutes of all of its open meetings.

B. Required Items for Inclusion. The minutes shall include, but need not be limited to:

1. the date, time, and place of the meeting;
2. the members of the board recorded as either present or absent; and
3. the substance of all matters decided, and, at the request of any board member, a record, by individual member, of any votes taken.

C. Optional Items for Inclusion. Any board member may request that a matter discussed during a meeting be placed in the written minutes of that meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 27:

§721. Publications of the Board

A. Roster. A roster showing the names and addresses of all professional engineers, the discipline of engineering in which professional engineers are licensed, and the names and addresses of all licensed land surveyors may be published by the board. Upon request, a copy of this roster may be mailed without charge to each person so licensed. Extra copies to licensees and copies to others may be furnished upon payment of a fee established by the board. The roster shall be made available through the board's website.

B. Official Journal. The official journal of the board shall be selected by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 19:55 (January 1993), LR 21:1355 (December 1995), LR 27:

§723. Voting

A. General Provisions. Unless otherwise specified in the following Subsections a simple majority of a quorum of the board at a meeting properly noticed and convened is necessary in order to elect an officer or approve a measure before the board.

B. Change of Domicile. In order to change the domicile of the board, approval of two-thirds of the entire board at a regular meeting properly noticed and convened is necessary.

C. Executive Session and Agenda Additions. Approval of two-thirds of a quorum of the board at a meeting properly noticed and convened is necessary in order to:

1. decide to hold an executive session; or
2. consider a matter not on the original agenda of the meeting.

D. Approval of Items Added to Agenda. If two or more board members present at a regular or special meeting are agreed to defer action of a matter not on the original agenda of the meeting that matter shall not be approved, and shall be placed on the original agenda of the next scheduled meeting.

E. Disciplinary Proceedings. Approval of a majority of the entire board membership authorized to participate in a proceeding is necessary in order to:

1. suspend, refuse to renew, or revoke the license or certificate, reprimand, place on probation, or fine any licensee or certificate holder;
2. prefer charges of violation of any provision of the licensure law or any rules or regulations issued by the board; or
3. reinstate an application, license, or certification.

F. Amend Bylaws. A majority vote of the entire board is necessary in order to amend the bylaws.

G. Waiver of Bylaw Amendment Requirements. By a unanimous vote of the board members present at a regular or special meeting, the 30-day provision for submission of proposed bylaw amendments may be waived.

H. Manner of Voting. Voting shall be conducted in the following manner:

1. no proxy voting or secret balloting shall be permitted;
2. all votes shall be viva voce; and

3. votes on motions to hold an executive session (along with the reason for holding the session) shall be recorded and entered into the minutes of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19:55 (January 1993), LR 21:1355 (December 1995), LR 27:

§725. Executive Session

A. Reasons for Calling Executive Sessions. Executive sessions may be held for the following purposes:

1. discussion of the character, professional competence, or physical or mental health of a person, provided that such person may require that such discussion be held at an open meeting;

2. strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the board;

3. discussion regarding the report, development or course of action regarding security personnel, plans or devices;

4. investigative proceedings regarding allegations of misconduct; or

5. cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude.

B. Limitations on Executive Sessions. No final or binding action shall be taken during an executive session; nor may a session be called for discussion of the appointment of a person to a public body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19:55 (January 1993), LR 27:

Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering

§901. Engineer Intern Certification

A. The requirements for certification as an engineer intern under the several alternatives provided in the licensure law are as follows.

1. Graduates of an EAC/ABET Accredited Engineering Curricula. The applicant shall be a graduate of an EAC/ABET accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board at a regular meeting.

2. Graduates with Advanced Engineering Degree. The applicant shall be a graduate of a non-EAC/ABET accredited engineering or related science or engineering technology curriculum of four years or more approved by the board as being of satisfactory standing, who has obtained an engineering graduate degree from a university having an EAC/ABET accredited undergraduate engineering curriculum in the same discipline, approved by the board as being of satisfactory standing, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board at a regular meeting.

3. Other Engineering Graduates. The applicant shall be a graduate of a non-EAC/ABET accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who has a specific record of four years or more of verifiable progressive experience obtained subsequent to graduation, on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the written examination in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, and having a personal knowledge of his engineering experience, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 27:

§902. Branches Added

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:693.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 17:273 (March 1991), amended LR 19:907 (July 1993), repealed LR 27:

§903. Professional Engineer Licensure

A. The requirements for licensure as a professional engineer under the two alternatives provided in the licensure law are as follows:

1. the applicant for licensure as a professional engineer shall be a certified engineer intern, or an individual who meets the qualifications to be a certified engineer intern, who has a verifiable record of four years or more of progressive experience obtained subsequent to meeting the qualifications to be an engineer intern on engineering

projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the written examination in the principles and practice in the discipline of engineering in which licensure is sought, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and character and ability, and who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board at a regular meeting; or

2. the applicant for licensure as a professional engineer shall be a person who holds a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia, in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional engineer by the board at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:350, 352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644-45 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), LR 27:

§905. Temporary Permit to Practice Engineering

A. A person who is not a resident of and has no established place of business in Louisiana, may be granted a written temporary permit to practice professional engineering when such practice does not exceed 120 consecutive days in any calendar year, provided such person is licensed to practice engineering in his/her own state, territory, or possession of the United States, or the District of Columbia, in which the requirements and the qualifications for obtaining a license are not lower than those specified in this Chapter, and provided further that before beginning such temporary practice in this state, the person shall have applied to the board, paid the prescribed fee, and received a temporary permit, and upon the conclusion of such work, he/she shall advise the board as to the period of time that he/she has practiced in the state under such temporary permit.

B. The authority for the executive secretary to issue a temporary permit can only be granted by the board.

C. The fee for a temporary permit shall be equal to the fee paid by an applicant applying for licensure as a professional engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September

1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:286 (April 1996), LR 27:

§907. Land Surveyor Intern Certification

A. A certified land surveyor intern shall be a graduate holding a baccalaureate degree from a curriculum of four years or more who has completed at least 30 semester credit hours, or the equivalent, in land surveying, mapping, and real property courses approved by the board, who is of good character and reputation, who has passed the written examination in the fundamentals of land surveying, who was recommended for certification by a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of the state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as a land surveyor intern by the board at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:90 (February 1984), LR 16:773 (September 1990), LR 27:

§909. Land Surveyor Licensure

A. The requirements for licensure as a professional land surveyor under the two alternatives provided in the licensure law are as follows:

1. an applicant for licensure as a professional land surveyor shall be a certified land surveyor intern, or an individual who meets the qualifications to be a certified land surveyor intern, who is of good character and reputation, who has a verifiable record of four years or more of combined office and field experience in land surveying including two years or more experience in responsible charge of land surveying projects under the supervision of a professional land surveyor registered or licensed by appropriate authority, who has passed the oral examination, who has passed the written examination in the principals and practices of land surveying and Louisiana laws of land surveying, and who was recommended for licensure by five personal references (at least three of whom must be professional land surveyors who have personal knowledge of the applicant), who has submitted an application for licensure in accordance with R.S. 37:694, and who was duly licensed as a professional land surveyor by the board at a regular meeting; or

2. the applicant shall be a person who holds a valid license to engage in the practice of land surveying issued to him/her by the proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law, who is of good character and reputation, who has passed a written examination on the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia in which he/she is licensed will accept the licenses issued by the

board on a comity basis, and who was duly licensed as a professional land surveyor by the board at a regular meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:351 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), LR 27:

§911. Limitations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), repealed LR 27:

Chapter 11. Curricula

§1101. Approved Curricula

A. The board shall determine which curricula are to be recognized under the provisions of the licensure law as approved curricula for the licensure of persons as engineer interns, professional engineers, land surveyor interns, and professional land surveyors.

B. In general, the board will recognize as approved all engineering curricula of four years or more accredited by EAC/ABET. The board may recognize as approved an engineering curriculum that was not accredited at the time of the applicant's graduation, but which became accredited within the following two years.

C. Based on an investigation by a committee of the board, the board may, by a majority vote at a regular meeting, recognize as an approved curriculum a non-accredited engineering curriculum of four years or more from a school of satisfactory standing that does not meet the specifications of §1101.B. The board shall keep a record of the engineering curricula thus approved.

D. The board, by a majority vote at a regular meeting, may approve curricula that contain at least 30 semester credit hours, or the equivalent, of satisfactory land surveying, mapping, and real property courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 10:805 (October 1984), LR 19:57 (January 1993), LR 27:

§1103. Other Curricula

A. To qualify for certification as an engineer intern, graduates of non-accredited engineering or related science curricula, must present evidence of experience of such quality and extent that the board believes that the applicant has obtained engineering knowledge and skills at least equivalent to that obtained by education in an accredited four-year engineering curriculum. Curricula must be of four years or more from a college or university having an approved curricula.

B. Non-accredited engineering curricula shall be those curricula of four years or more which are found by the board to be equivalent in content to accredited engineering curricula, including a minimum of 46 semester credit hours

of recognized engineering courses, 36 of which shall be advanced level courses usually offered in the junior and senior years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended 7:647 (December 1981), LR 10:805 (October 1984), LR 19:907 (July 1993), LR 27:

§1105. Engineering Graduate Programs

A. Acceptable engineering graduate programs are those offered by engineering departments which maintain accreditation from EAC/ABET at the basic or advanced level and which require the removal of deficiencies in science, mathematics, engineering science, and engineering design as a prerequisite to the graduate courses; or are those found by the board to be equivalent to such programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended 7:647 (December 1981), LR 10:805 (October 1984), LR 19:907 (July 1993), LR 27:

Chapter 13. Examinations

§1301. General

A. Only persons of good character and reputation who have received permission from the board will be allowed to take any examination offered by the board. For all examinations, applications must be timely filed with the board.

B. The applicant must present appropriate documents to establish his/her eligibility and identification prior to being admitted to any examination.

C. Timely filing of an application with the board does not assure that an applicant will be permitted to take an examination, or be scheduled for examination on a particular date. To be considered for a specific examination date, the application should be received at the board office no later than the following number of days prior to a particular examination scheduled by the board: fundamentals of engineering, 90 days; fundamentals of land surveying, 180 days; principles and practice of engineering, 90 days; principles and practice of land surveying and the Louisiana laws of land surveying, 180 days.

D. Examinations in the fundamentals of engineering, fundamentals of land surveying, the principles and practice of engineering, the principles and practice of land surveying and the Louisiana laws of land surveying will be offered at least once a year at times and places designated by the board. Descriptions of typical content of the examinations will be made available to applicants by the board through its office or through the office of the National Council of Examiners for Engineering and Surveying (NCEES).

E. Examinees will be notified in writing what material will be permitted in the examination room when scheduled for an examination.

F. Any applicant found to have engaged in conduct which subverts or attempts to subvert the engineering or land surveying examination process may, at the discretion of the board, have his or her scores on the examination withheld and/or declared invalid, have disciplinary action taken as

described in R.S. 37:698-700 and/or be subject to the imposition of other appropriate sanctions.

G. The board may require applicants to demonstrate their knowledge of the law, rules of the board, and the English language by requiring either oral or written examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), LR 27:

§1303. Approval to Take the Fundamentals of Engineering Examination

A. Graduating seniors of four-year engineering curricula, accredited or non-accredited, may be permitted to take the examination in the fundamentals of engineering during their last two semesters or last three quarters prior to graduation, or thereafter.

B. Graduates of a four-year engineering curriculum, accredited or non-accredited, and graduates of a related science or technology curriculum, approved by the board, who have obtained a graduate degree in an engineering curricula from a college or university having an undergraduate curriculum accredited by EAC/ABET approved by the board may be permitted to take the examination in the fundamentals of engineering.

C. A graduate student enrolled in a program, approved by the board, leading to a graduate degree in engineering or the equivalent, may be permitted to take the fundamentals of engineering examination.

D. The board may allow the substitution of a qualifying examination for the fundamentals of engineering examination for any applicant who has an earned doctoral degree in engineering from a college or university having an undergraduate curriculum accredited by EAC/ABET, or the equivalent exam approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:88 (March 1978), amended LR 5:113 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), LR 10:805 (October 1984), LR 14:449 (July 1988), LR 17:804 (August 1991), LR 27:

§1305. Approval to Take the Examination in the Principles and Practice of Engineering

A. An applicant who meets the other requirements for licensure as a professional engineer may be permitted to take the examination in the principles and practice of engineering in the discipline in which he/she seeks licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 11:950 (October 1985), LR 27:

§1307. Approval to Take the Fundamentals of Land Surveying Examination

A. A student in the final two semesters or final three quarters of the bachelor's degree may be permitted to take the fundamentals of land surveying examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 27:

§1309. Approval to Take the Examination in the Principles and Practice of Land Surveying and in the Louisiana Laws of Land Surveying

A. An applicant who meets the other requirements for licensure as a professional land surveyor may be permitted to take the examinations in the principles and practice of land surveying and in the Louisiana laws of land surveying.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 27:

§1311. Examination for Record Purposes

A. The National Council of Examiners for Engineering and Surveying (NCEES) prepares examinations in the principles and practice of engineering. The board provides the opportunity for engineers who were previously licensed in Louisiana to take the National Council's examination in the discipline of their license without affecting their current licensure status with this board. These examinations are offered at times and places designated by the board. Each applicant will be charged a fee for this service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 27:

§1313. Examination Results

A. The board will specify the minimum passing score for all examinations for certification or licensure of applicants.

B. Applicants will be informed by mail only as to whether they passed or failed an examination. Numerical grades will not be released by the board. This information or other information pertaining to the status of an application will not be released by telephone to anyone, including the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 27:

§1315. Re-examinations

A. A person who fails an examination is eligible to apply to retake the examination. A request for re-examination must be submitted in writing prior to the deadline for scheduling of the examination.

B. Before an applicant is given approval to retake an examination, he/she may be required to appear before the board, or a committee of the board, for an oral interview/oral examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:113 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), LR 27:

Chapter 15. Experience

§1501. Recognition of Experience

A. The board will not recognize experience acquired by an applicant in violation of the licensure law of any state.

B. In considering applications for licensure by comity, the board may recognize examinations passed before the applicant had accrued sufficient qualifying experience according to Louisiana experience requirements in effect at the time, if:

1. the applicant had been a resident of the state in which he was examined for at least one year prior to the date of the examination; and

2. the examination was passed in accordance with that state's laws and regulations in effect at the time; and

3. the experience deficiency according to Louisiana experience requirements has been satisfied as of the date of the application to the Louisiana board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), LR 27:

§1503. Graduate-Level Experience

A. Beginning on January 1, 2005, successful completion of graduate study leading to a master's degree in engineering which has followed a baccalaureate degree in engineering may be used for credit for one year's experience. If the Ph.D. in engineering is completed under the same conditions, two years' total experience may be credited. The two-years' credit includes the one year for the master's degree. If the Ph.D. is obtained without the master's degree, the credit for experience may be two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:112 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), LR 27:

§1505. Work Experience

A. No applicant will be allowed more than one year of experience for work and education during any consecutive 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), LR 27:

§1507. Experience Subsequent to Degree

A. Only experience obtained subsequent to completion of a degree specified in the requirements for qualifying as an engineer intern will be considered as engineering experience.

B. Up to one year of an engineering nature may be creditable prior to graduation, if obtained through a college or university-sponsored co-op program as part of a four-year engineering program approved by the board, and only after

completion of the first half of the program. If the co-op work is full-time work, the amount of credit given is equal to the time worked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 27:

§1509. Experience should not be Anticipated

A. Experience should not be anticipated. The experience should be gained by the time of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1511. Experience from Engineering Research

A. Experience gained in engineering research and design projects by members of an engineering faculty where the curriculum if approved by the board is creditable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1513. Teaching Experience

A. Engineering. Teaching experience, to be creditable, must be in engineering or engineering-related courses at an advanced level in a college or university offering an engineering curriculum of four years or more that is approved by the board.

B. Land Surveying. Teaching experience to be creditable must be at an advanced level in a land surveying curriculum approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1515. Progressive Experience

A. Engineering. Experience must be progressive on engineering projects to indicate that it is of increasing quality and requiring greater responsibility.

B. Land Surveying. Experience must be progressive on land surveying projects to indicate that it is of increasing quality and requiring greater responsibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1517. Knowledge Required

A. Experience should include a knowledge of engineering mathematics, physical and applied science, properties of materials, and the fundamental principles of engineering design.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1519. Applied Experience

A. Experience should include application of engineering principles in the practical solution of engineering problems.

B. Professional land surveyor applicants must demonstrate a substantial portion of their experience was spent in charge of work related to property conveyance and/or boundary line determination.

C. Professional land surveyor applicants must demonstrate adequate experience in the technical field aspects of the profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1521. Experience Acquired in the Armed Services

A. Experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. Normally, it would be expected that the applicant while in the armed services served in an engineering or engineering-related group.

B. Experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. Normally, it would be expected that the applicant while in the armed services served in a land surveying group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1523. Sales Experience

A. For sales experience to be creditable, it must be demonstrated that engineering principles were required and used in gaining experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1525. Experience in Construction

A. Experience in construction, to be creditable, must demonstrate the application of engineering principles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

§1527. Supervision by Licensed Professional

A. Engineering. Experience should be gained under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, or, if not, an explanation should be made showing why the experience should be considered acceptable.

B. Land Surveying. Experience should be gained under the supervision of a professional land surveyor holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia,

or, if not, an explanation should be made showing why the experience should be considered acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

Chapter 17. Applications and Fees

§1701. Applications

A. Applications for certification as an engineer intern or land surveyor intern and licensure as a professional engineer or professional land surveyor shall be completed on forms developed by the board, shall contain statements made under oath showing the applicant's qualifications, and the names and addresses of persons who can verify such statements, and in addition, the names and addresses of five personal references. Three or more of the five personal references furnished by an applicant for licensure as a professional engineer shall be professional engineers. Three or more of the five personal references furnished by an applicant for licensure as a professional land surveyor shall be professional land surveyors.

B. Applicants who have attended college shall have certified transcripts of all college work forwarded by the registrar of each college directly to the office of the board.

C. For college credits and/or college degrees earned outside of the United States, applicants may be required to submit a course-by-course analysis and equivalency in terms of United States courses and credits from an organization approved by the board. The applicant will be responsible for fees connected with this service.

D. Requests for licensure in more than one discipline must be submitted on separate application forms.

E. An application for licensure may be considered incomplete by the board. The applicant may be denied admission to written examinations until the information submitted in the application has been investigated and replies have been received from references. The board may require additional information and documents it considers necessary for the proper evaluation of an application.

F. An application requiring an examination for certification or licensure must be timely filed with the board office (§1301).

G. Applicant files may be destroyed at the discretion of the executive secretary no earlier than five years after original submission of the application.

H. Applications for licensure of an engineering firm and/or land surveying firm must be typed on the form provided by the board, must be completed in their entirety, and must contain the name, license number, and signature of all Louisiana professional engineers and/or land surveyors designated as supervising professionals in accordance with Chapter 23 (Corporations and Firms). The name and signature of an officer of the firm duly authorized to make certifications on behalf of the firm must appear in the specified location of the form. If the applicant is a corporation, a copy of the corporation's Louisiana Certificate of Incorporation (domestic) or Certificate of Authority (foreign) must accompany the application. The board will license firms that are corporations using only the name as reflected on the corporation's Certificate of Authority or the Certificate of Incorporation. Designated supervising professionals for the firm must also successfully complete a

Louisiana Laws and Rules Examination prior to licensure of the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), LR 19:57 (January 1993), LR 27:

§1703. Fees

A. Application fees, license fees, certification fees, renewal fees and all other fees shall be established by the board by a majority vote at a regular meeting. The fees so established shall be in accordance with the limits specified in the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:503 (December 1977), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 27:

Chapter 19. Disciplines of Engineering

§1901. Disciplines

A. The licensure law provides that professional engineers will be issued licenses by the board as a professional engineer and that the board may designate a professional engineer as being licensed in one or more of the disciplines approved by the NCEES. The board recognizes all disciplines examined by the NCEES, including:

1. agricultural;
2. chemical;
3. civil;
4. control systems;
5. electrical;
6. environmental;
7. fire protection;
8. industrial;
9. manufacturing;
10. mechanical;
11. metallurgical;
12. mining/mineral;
13. naval architecture and marine;
14. nuclear;
15. petroleum;
16. structural.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 5:365 (November 1976), LR 7:646 (December 1982), LR 11:362 (April 1985), LR 27:

§1903. Accredited Specialties (EAC/ABET)

A. These disciplines reflect important engineering specialties which are taught in a substantial number of engineering programs in the United States accredited by EAC/ABET and which have been determined by the board to be of importance in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended LR 10:805 (October 1984), LR 27:

§1905. Additional Disciplines

A. The board may recognize additional disciplines which are approved by the NCEES, as needed to safeguard life, health, and property, to promote the public welfare, and to establish and maintain high standards of integrity and practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended LR 27:

§1907. Disciplines Criteria

A. The board may add disciplines in accordance with the following criteria.

1. There must be a probable need in the state of Louisiana for specialized engineering expertise in the new discipline.

2. Examinations in the principles and practice of the discipline of engineering must be offered on a regular basis by the National Council of Examiners for Engineering and Surveying (NCEES), or by at least 15 state boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended LR 10:805 (October 1984), LR 27:

§1909. Licensure in a Newly Recognized Discipline

A. On the basis of the above criteria, the board, by majority vote at a regular meeting, may recognize a new discipline of engineering for the purpose of licensure. Within one year after the board recognizes a new discipline, the board may waive the principles and practice examination in that discipline for all licensees who present evidence that they are qualified by experience and education to practice in that discipline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended LR 27:

§1911. Limitations

A. The board will not add disciplines to correspond to job titles or job functions, such as corrosion engineer, air conditioning engineer, construction engineer, automotive engineer, safety engineer, sales engineer, traffic engineer, or planning engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:646 (December 1981), amended LR 27:

Chapter 20. Continuing Professional Development (CPD)

§2001. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), repealed LR 27:

§2003. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), repealed LR 27:

§2005. Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), repealed LR 27:

§2007. Reciprocity/Out-of-Jurisdiction Resident

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), repealed LR 27:

§2009. Exemptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), repealed LR 27:

§2011. Determination of Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), repealed LR 27:

§2013. Units

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), repealed LR 27:

§2015. Record Keeping

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), repealed LR 27:

§2017. Audit and Review of Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), repealed LR 27:

§2019. Failure to Comply

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), repealed LR 27:

§2021. CPD Reinstatement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), repealed LR 27:

Chapter 21. Certificates of Licensure and Certification of Individuals or Corporations

§2101. Expiration and Renewals

A. Licenses and certificates of individuals or corporations shall expire on the date specified on the renewal certificate and/or as shown on the board's records and shall become invalid after that date unless renewed within 120 days. After that period, the former licensee or certificate holder may apply to the board to reactivate his/her former license or certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 6:417 (June 1983), LR 11:363 (April 1985), LR 27:

§2103. Licensure Status

Active Status—the licensure status which exists for a licensee of the board who has complied with all the licensure and licensure renewal requirements of the board.

Expired Status—the licensure status which exists for a licensee of the board who has failed to properly renew licensure as required in R.S. 37:697. A licensee in an *expired status* can no longer practice or offer to practice professional engineering or professional land surveying in Louisiana.

Inactive Status—the licensure status which exists for a licensee of the board who has chosen not to practice or offer to practice professional engineering and/or professional land surveying in Louisiana and who has indicated that fact on the board biennial licensure renewal form. This licensee can represent himself/herself to the public as a *P.E. Inactive*, or a *P.L.S. Inactive*, but cannot otherwise practice or offer to practice professional engineering and/or professional land surveying in Louisiana.

Retired Status—the licensure status which exists for a licensee of the board who has chosen not to practice or offer to practice professional engineering and/or professional land surveying in Louisiana and who has indicated that fact on the board biennial licensure renewal form. To qualify for the *retired status*, the licensee must be at least 70 years of age or have been a licensee of the board for at least 35 years. The renewal fee for the *retired status* shall be one-half of the current renewal fee for the *active status*. This licensee can represent himself/herself to the public as a *P.E. Retired*, or a *P.L.S. Retired*, but cannot otherwise practice or offer to practice professional engineering and/or professional land surveying in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2151 (November 1998), amended LR 27:

§2105. Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), repealed LR 27:

§2107. Conflicts of Interest

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), repealed LR 27:

§2109. Improper Solicitation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), repealed LR 27:

Chapter 23. Corporations and Firms

§2301. General

A. The following rules with regard to firms providing or offering to provide professional services shall apply equally to corporations, partnerships, and individual proprietorships, unless otherwise provided:

1. use of the term *professional services* in this Chapter will refer to either professional engineering services or professional land surveying services; and

2. use of the term *licensed professional* in this Chapter will refer to either a professional engineer or a professional land surveyor.

B. A firm must be licensed with the board before it may provide or offer to provide either professional engineering or professional land surveying services.

1. A firm which has in its title the word "engineering" or "surveying" or any derivative thereof shall be construed to be offering to provide engineering or land surveying services and therefore must be licensed with the board before doing business in the state of Louisiana, unless it has in its title modifying or explanatory words which would, in their ordinary meaning, negate the inference of the professional practice of engineering or land surveying.

2. A firm may provide or offer to provide both professional engineering and professional land surveying services; provided, however, that the firm must qualify separately as an engineering firm and as a land surveying firm, and the requirements of this Chapter will apply separately to providing or offering to provide professional engineering services and professional land surveying services.

3. A firm may provide or offer to provide both professional services and related licensed professional services, such as architecture and landscape architecture;

provided, however, the firm must be licensed under and comply with the provisions of this Chapter.

C. Unless otherwise provided, unincorporated individual proprietorships which bear the full name of the owner who is a Louisiana licensed professional are exempt from the application of this Chapter. Such firms are not required to be licensed as engineering or surveying firms with the board. Unincorporated individual proprietorships that do not bear the full name of the owner who is a Louisiana licensed professional must be licensed with the board as an engineering or surveying firm and must comply with all the provisions of this Chapter.

D. Joint ventures that provide or offer to provide professional services will not be required to be licensed as separate entities. Nevertheless, any firm (including those individual proprietorships otherwise excluded under §2301.C) that provides or offers to provide professional services in conjunction with its participation in a joint venture can do so only if it complies with the provisions of these rules. In addition, any supervising professional who participates in a joint venture shall be responsible for assuring that all professional services performed by the joint venture are rendered in conformity with the provisions of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:116 (May 1979), LR 8:191 (April 1982), LR 16:774 (September 1990), LR 27:

§2305. Supervising Professional

A. In the case of firms providing or offering to provide professional services in the state of Louisiana, all such professional services shall be executed under the responsible charge of a licensed professional duly licensed in this state, and designated by the firm as a supervising professional. Such licensed professional shall be an active employee:

1. whose primary occupation or employment is with the firm on a full-time basis; or

2. whose secondary occupation or employment is with the firm, provided the firm is totally owned by one or more of the professionals whose license is used to qualify the firm for licensure. When the work consists of plans, designs, specifications, reports or maps, such licensed professional shall impress them with his/her seal as required by law. The appearance of a seal on a document of any type shall constitute a representation that such document was prepared by the licensed professional or under his/her supervision.

B. Nothing in these rules shall be construed to give a professional engineer the power to practice professional land surveying, unless that professional engineer has independently met the requirements for licensure as a professional land surveyor.

C. Nothing in these rules shall be construed to give a professional land surveyor the power to practice professional engineering, unless that professional land surveyor has independently met the requirements for licensure as a professional engineer.

D. It is the intent of these rules to guarantee that all professional work performed by a licensed firm is performed under the supervision of or by a licensed professional. To this end, the board may also require a licensed firm to

identify those licensed professionals who will be providing professional services. In addition, the board may require the individual licensee identified by the licensed firm as the responsible professional to acknowledge this responsibility, and assume the responsibility of informing the board in the event of a change of employment. No licensed professional shall be designated as a supervising professional by more than one firm, except in the case of secondary occupation or employment by a firm which is totally owned by one or more of the professionals whose license is used to qualify the firm for licensure. A failure to comply with any of the provisions of this regulation may subject both the licensed firm and the licensed professional to disciplinary action by the board.

E. Compliance with the above rules will not be met by a contractual relation between the firm and a licensed professional or a firm of licensed professionals in which such licensed professional or firm of licensed professionals is available on a consultative basis. Nor will it be considered compliance if a licensed professional is related to the firm solely in a nominal or inactive capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:116 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), LR 27:

§2307. Professional Identification

A. Letterheads, business cards, advertisements and other similar identifying items issued by firms providing or offering to provide professional services in the state of Louisiana shall reflect the name of the professional engineer or land surveyor in responsible charge and/or the license number of the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:116 (May 1979), amended LR 8:191 (April 1982), LR 27:

§2309. Enforcement

A. In the event that a firm providing or offering to provide professional services within the state of Louisiana shall fail to comply with these rules, the board, after investigation of the facts, may take whatever action is necessary against such firm to require compliance or to enjoin further practice or offers to practice professional engineering or professional land surveying.

B. Any firm that is licensed by the board is subject to all disciplinary provisions provided for in the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:503 (December 1977), amended LR 5:117 (May 1979), LR 8:191 (April 1982), LR 19:57 (January 1993), LR 27:

Chapter 25. Professional Conduct

§2501. Scope; Knowledge; Definition of Licensee

A. In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following rules of professional conduct shall be binding on every licensee.

These rules of professional conduct deal primarily with the relationship between licensees and the public, and should not be construed as a substitute for codes of ethics of the various professional and technical societies.

B. All licensees under the licensure law are charged with having knowledge of the existence of these rules of professional conduct, and shall be deemed to be familiar with their provisions and to understand them.

C. In these rules of professional conduct, the term "licensee" shall mean any professional engineer, professional land surveyor, engineer intern, land surveyor intern, or domestic or foreign corporation holding a license or certificate issued by this board.

D. A licensee possessing personal knowledge of a violation of the licensure law or the board rules found in this Chapter shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require. The licensee shall timely respond to all inquiries and correspondence from the board and shall timely claim correspondence from the U.S. Postal Service, or other delivery service, sent to the licensee, from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 7:648 (December 1981), LR 16:776 (September 1990), LR 27:

§2503. Licensees

A. Licensees shall hold paramount the safety, health, property and welfare of the public in the performance of their professional duties.

B. Licensees shall at all times recognize that their primary obligation is to protect the safety, health, property, and welfare of the public. If their professional judgment is overruled by nontechnical authority, they will clearly point out the consequences, notifying the proper authority of any observed conditions which endanger public safety, health, property and welfare.

C. Licensees shall approve and seal only those design documents and surveys which are safe for public health, property, and welfare, which are complete and accurate, which are in conformity with accepted engineering and land-surveying standards or practice, and which conform to applicable laws and ordinances.

1. Licensees shall comply fully with Chapter 27 (Use of Seals).

2. Except as permitted by §2701.A.3.b.ii.(a), licensees shall not seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the licensee or under the licensee's responsible charge.

3. Licensees may not accept the responsibility for, nor review, revise, sign, or seal drawings when such plans are begun by persons not properly licensed and qualified; or do any other act to enable either such licensees or the project owners, directly or indirectly, to evade the requirements of the licensure law.

D. Licensees shall submit to a client only that work (plans, specifications, reports, and other documents) prepared by the licensee or by an employee (or subordinate) of the licensee (which is under the licensee's responsible

charge); however, licensees, as a third party, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana statutes, when engaged to do so by a client, provided:

1. the client furnishes the documentation of all such work submitted to him by the previous licensee(s), or their related design professional(s);

2. the previous licensees or other related design professionals are notified in writing by the licensee of the engagement referred to herein immediately upon acceptance of the engagement; and

3. all work completed, corrected, revised, or added to shall contain a notation describing the work done by the licensee now in responsible charge, shall have the seal and signature of the licensee affixed thereto, the date of execution, and shall become the responsibility of the licensee.

E. Licensees shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony.

F. When serving as an expert or technical witness before any court, commission, or other tribunal, licensees shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony.

G. Licensees shall issue no statement, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of any party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the instant matters.

H. Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such information shall be presented to the board in a manner consistent with the requirement of those rules for reporting personal knowledge of rule or statute violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 11:950 (October 1985), LR 16:772 (September 1990), LR 17:273 (March 1991), LR 27:

§2505. Services

- A. Licensees shall perform services only in the area of their competence.

- B. Licensees shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved.

- C. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence, nor to any such plan or

document not prepared under their responsible charge. Responsible charge requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. The professional engineer and professional land surveyor may affix their seal and signature to drawings and documents depicting the work of two or more professionals provided that a note under the seal designates the specific subject matter for which each is responsible.

D. Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by licensed, qualified associates, consultants, or employees, in which case they may then sign and seal the documents for the total project.

E. In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the licensee or on its own volition, shall admit the licensee to an appropriate examination.

F. Engineers and construction (design-build) entities that meet all statutory requirements in this jurisdiction may offer a combination of engineering and construction services, provided that:

1. the entity obtains an authorization certificate from the board by filing, on a form approved by the board, a written disclosure on which it shall designate an engineer licensed in this jurisdiction to be in responsible charge of all engineering services offered and/or provided by the entity;

2. an engineer licensed in this jurisdiction and associated with such entity participates in the material aspects of the offering of engineering services with respect to any project;

3. one or more of the officers, partners, or members of the entity, and all personnel of such entity who act on its behalf as engineers, are licensed as engineers in this jurisdiction; and

4. the engineer(s) competent in the required specific areas of practice and licensed in this jurisdiction shall be in responsible charge of all engineering design and be directly involved during the construct of the project;

5. in the event such engineer's services are terminated with respect to the project, the entity and the engineer shall, within five business days, notify the board of such termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 27:

§2507. Conflicts of Interest

- A. Licensees shall further act in professional matters for each employer or client as faithful agents or trustees and shall avoid conflicts of interest.

B. Licensees shall disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest, or other circumstances which could influence their professional judgment or the quality of their professional services.

C. Licensees shall not accept compensation, financial or otherwise, from more than one party for professional services on the same project, or for professional services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

D. Licensees shall not solicit or accept, directly or indirectly, benefits of any substantial nature or significant gratuity, from any supplier of materials or equipment, or from contractors, their agents, servants or employees or from any other party dealing with the client or employer of the licensee in connection with any project on which the licensee is performing or has contracted to perform engineering or land surveying services.

E. When in public service as a member, advisor or employee of a governmental body or agency, or under contract to provide consultation, advice, technical reviews and recommendations to a governmental body or agency, licensees shall not participate in considerations or actions with respect to professional services provided by them or their organization to that governmental body or agency.

F. Licensees shall not solicit nor accept an engineering and/or land surveying contract from a governmental body of which a principal or officer of the licensee's firm serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of appropriate public authority.

G. Licensees shall not attempt to supplant another engineer or land surveyor in a particular engagement after becoming aware that the other has been selected for the engagement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 27:

§2509. Improper Solicitation

A. Licensees shall avoid improper solicitation of professional employment or services.

B. Licensees shall not falsify or permit:

1. misrepresentation of the licensee or any associate's academic or professional qualifications;
2. misrepresentation or exaggeration of the licensee's degree of responsibility in or for the subject matter of prior assignments; or
3. misrepresentation of pertinent facts concerning employers, employees, associates or joint ventures, of the licensee's or their firm's past accomplishments, with the intent and purpose of enhancing their qualifications and their work.

C. Licensees shall not pay nor offer to pay, directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, except under the following circumstances:

1. securing salaried positions through employment agencies; or
2. as a bona fide employee, or a bona fide established commercial marketing agency retained by them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 27:

§2511. Conduct of Advertising

A. Licensees shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance in brochures, correspondence, listings, or other public communications.

B. The prohibitions listed in Paragraph A include, but are not limited to the use of statements containing a material misrepresentation of fact or omitting a material fact necessary to keep the statement from being misleading; statements intended or likely to create an unjustified expectation; and statements containing a prediction of future success.

C. Consistent with the foregoing, licensees may advertise for recruitment of personnel.

D. Consistent with the foregoing, licensees may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 27:

Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. Seal Possession

a. Each professional engineer or professional land surveyor, upon licensure, shall obtain an official seal.

i. Firms are not authorized to possess seals.

ii. In the case of a temporary permit issued to a licensee of another state, the licensee shall affix the seal of his/her state of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to all of his/her work.

2. Seal Design and Signature Requirements

a. The design of the seal shall have the following minimum information:

i. State of Louisiana;

ii. licensee's name;

iii. license number;

iv. contain the words "Professional Engineer" or "Professional Engineer in _____ Engineering;" or

v. "Professional Land Surveyor."

Seals issued prior to promulgation of these rules may use the word "registered" in lieu of "license". If a seal is replaced, the new seal shall use the word "license" in lieu of "registered".

b. Indicated below is a sample of the seal design authorized by the board.

c. Seals of two sizes are acceptable:

i. 1-5/8 inch seal commonly used in pocket seals; and

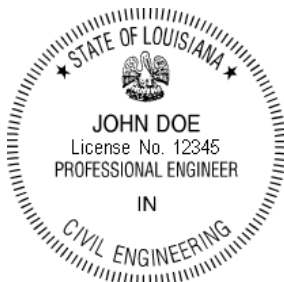
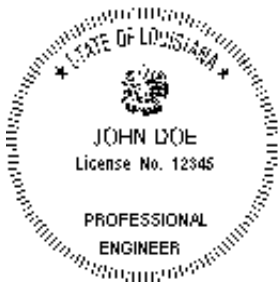
ii. 2-inch seal commonly used in desk seals.

d. Rubber seals of the same design and size are acceptable for use.

e. Computer generated seals of the same design and size may be used on final original drawings, provided that a

handwritten signature is placed adjacent to or across the seal and the date is written below the seal.

f. A seal must be accompanied by the licensee's signature and date. Electronic signatures are not authorized except for electronic transmission of work as stated herein below.



3. Seal Responsibility

a. The application of the licensee's seal, signature, and date shall constitute certification that the work thereon was done by the licensee or under his/her responsible charge. The licensee shall be personally and professionally responsible and accountable for the care, custody, control and use of his/her seal, professional signature and identification. A seal which has been lost, misplaced or stolen shall, upon discovery of its loss, be reported immediately to the board by the licensee. The board may invalidate the licensure number of said licensee, if it deems this necessary, and issue another licensure number to the licensee.

b. Responsible Charge

i. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a licensee only when:

(a). the client or any public or governmental agency requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the licensee or the licensee's employee as long as the employee works in the licensee's place(s) of business;

(b). the licensee supervises the initial preparation of the plans, specifications, drawings, reports or other documents and has continued input into their preparation prior to their completion;

(c). the licensee reviews the final plans, specifications, drawings, reports or other documents; and

(d). the licensee has the authority to, and does make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.

(i). If the plans, specifications, drawings, reports, or other such documents are prepared outside the licensee's office, the licensee shall maintain all evidence of the licensee's responsible charge including correspondence, time records, check prints, telephone logs, site visit logs, research done for project, calculations, changes, and all written agreements with any persons preparing the documents outside of the licensee's office accepting professional responsibility for such work.

(ii). A licensee failing to maintain written documentation of the items set forth above, when such are applicable, shall be considered to be in violation of R.S. 37:698(A)(6), and the licensee shall be subject to the disciplinary action procedure as set forth in the licensure law.

ii. No licensee shall affix his/her seal or signature to reports, plats, sketches, working drawings, specifications, design calculations, or other engineering and land surveying documents developed by others not under his/her responsible charge and not subject to the authority of that licensee, except:

(a). In the case of an individual licensee checking the work of and taking the professional responsibility for an out-of-state individual licensee, the Louisiana licensee shall completely check and have responsible charge of the design. Such responsible charge shall include possession of the sealed and signed reproducible construction drawings, with complete signed and sealed design calculations indicating all changes in design.

(b). Certification of standard design plans which are initially prepared and sealed by a professional engineer properly licensed in the state of origin of such plans. Standard design plans may then be reviewed by a Louisiana resident professional engineer for code conformance, design adequacy, and site adaption for the specific application within Louisiana. The professional engineer licensed in Louisiana assumes responsibility for such standard designs. Standard plans, which bear the seal of a professional engineer licensed in another state, shall be sealed by the Louisiana resident professional engineer who is assuming responsibility. In addition to the seal, a statement shall be included as follows. "These plans have been properly examined by the undersigned. I have determined that they comply with existing local Louisiana codes, and have been properly site adapted to use in this area."

iii. No licensee shall affix his/her seal or signature to documents having titles or identities excluding the licensee's name unless:

(a). such documents were indeed developed by the licensee under the licensee's responsible charge;

(b). the licensee shall exercise full authority to determine his/her development; and

(c). except as set forth in §2701.A.3.b.i.(a).

4. Seal Use

a. Completed Work

i. The licensee shall affix his/her seal, sign his/her name, and place the date of execution on all engineering and land surveying documents that have been issued by the licensee to a client or any public or governmental agency as completed work.

(a). In the case of a temporary permit issued to a licensee of another state, the licensee shall affix the seal of his/her state of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to all of his/her work.

ii. Drawings and Plats

(a). In the case of multiple sealings, the first sheet or title page shall be sealed and signed by the licensee or licensees in responsible charge. In addition, each sheet shall be sealed by the licensee or licensees responsible for each sheet.

(b). In the case of a firm, partnership or corporation, each sheet shall be sealed and signed by the licensee or licensees responsible for that sheet and the licensee(s) in responsible charge shall sign and seal the title page or first sheet.

iii. Specifications, reports, design calculations and information

(a). In the case of specifications or reports of multiple pages, the first sheet or title page of each document shall be sealed and signed by the licensee or licensees involved. Subsequent revisions shall be dated and initialed by the licensee in responsible charge whose seal and signature appears on the first sheet or title page.

(b). In the case of a firm, partnership or corporation, the licensee in responsible charge shall sign and seal the title page or first sheet.

b. Preliminary Work

i. All preliminary documents, so marked in large bold letters, shall contain a statement that the documents are not to be used for construction, bidding, recordation, conveyance, sales, or as the basis for the issuance of a permit. Preliminary documents are not required to have the licensee's seal and signature affixed, but must bear the name and licensure number of the licensee, and the firm's name, if applicable.

c. Exempt Work

i. No seal, signature nor date shall be required in any of the following situations:

(a). on any sewage facility project in which the estimated project cost of the sewage facility, plus installation but not including cost of fencing, does not exceed \$5,000, as calculated by agency engineers reviewing the project;

(b). on any water facility project in which the estimated project cost of the facility, including lines, pumps, water treatment work and installation, does not exceed \$5,000, as calculated by agency engineers reviewing the

project; provided that such project does not cause a change in treatment, chemical addition, or any other process affecting either the quality or quantity of water being produced;

(c). on any project for the construction of individual/private water wells;

(d). on any project involving both water and sewage facilities, provided that the estimated project cost of each facility does not exceed \$5,000, as calculated by agency engineers reviewing the project; or

(e). in-kind replacement of water or sewage facilities in which the estimated project cost of the replacement does not exceed \$5,000 as calculated by agency engineers reviewing the project.

5. Electronic Transmission

a. Drawings, specifications, plans, reports or other documents which require a seal may be transmitted electronically provided the seal and signature of the licensee is transmitted in a secure mode that precludes the seal and signature being produced or modified. Drawings, reports or documents which are signed using a digital signature as defined in the rules shall contain the authentication procedure and a list of the hardware, software, and parameters used to prepare the document(s).

b. Drawings, specifications, plans, reports or other documents which do not require a seal may be transmitted electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date. "This document originally issued and sealed by (name of licensee number and "date of sealing"). This document should not be considered a certified document."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:112 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1998), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207, repromulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 1525 (August 1999), amended LR 27:

§2703. Board Members

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), repealed LR 27:

§ 2705. Standing Committees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1180 (December 1985), LR 19:54 (January 1993), LR 21:1354 (December 1995), repealed LR 27:

§2707. The Executive Secretary

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1180 (December 1985), LR 19:55 (January 1993), LR 21:1354 (December 1995), repealed LR 27:

§2709. Meetings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), amended LR 11:1181 (December 1985), LR 19:55 (January 1993), LR 21:1354 (December 1995), repealed LR 27:

§2711. Minutes

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), repealed LR 27:

§2713. Executive Session

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), LR 19:55 (January 1993), repealed LR 27:

§2715. Voting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19:55 (January 1993), LR 21:1355 (December 1995), repealed LR 27:

§2717. Rulemaking Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), repealed LR 27:

§2719. Publications of the Board

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 19:55 (January 1993), LR 21:1355 (December 1995), repealed LR 27:

§2721. Bonding

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), repealed LR 27:

§2723. Disbursements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 21:1355 (December 1995), repealed LR 27:

§2725. Compensation and Expenses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1182 (December 1985), LR 19:55 (January 1993), repealed LR 27:

§2727. Board Nominations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 5:120 (May 1979), LR 11:1182 (December 1985), LR 19:56 (January 1993), repealed LR 27:

§2729. Amendments to Bylaws

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1183 (December 1985), repealed LR 27:

Chapter 29. Minimum Standards for Property Boundary Surveys

§2901. General

A. The following minimum standards of practice for land surveying in the state of Louisiana have been adopted to help ensure that surveys are performed in accordance with acceptable procedures.

B. These standards are set forth to solely provide a means by which professional performance can be assessed by the board and to enable the surveying profession as a whole to better protect the safety, health, and welfare of the public. It should be recognized that surveying practices now in place may vary from one region of the state to another, and these practices should be evaluated when at variance with these standards.

C. It is intended that these be recognized as minimum standards of practice and that they not be relied upon by the professional land surveyor as a substitute for the exercise of proper individual skill, professional discretion, and good judgment in fulfilling the legal and/or contractual requirements of any property boundary survey.

D. When in the professional land surveyor's opinion, special conditions exist that effectively prevent the survey from meeting these minimum standards, the special

conditions and any necessary deviation from the standards shall be noted upon the drawing. It shall be a violation of this rule to use special conditions to circumvent the intent and purpose of these minimum standards.

E. A property boundary survey shall only be performed by persons qualified to practice land surveying and licensed in accordance with the provisions of the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:713 (August 1996), LR 27:

§2903. Definitions

A. Any terms not specifically defined herein shall be as defined in the most current publication of *Definitions of Surveying and Associated Terms* as published by the American Congress on Surveying and Mapping. For the purpose of this Chapter, all the definitions listed that differ from any other source are to be interpreted as written herein.

Client—the person with whom the contract for work is made. This may, or may not be the owner.

Corner—a point on a land boundary, at which two or more boundary lines meet. Not the same as monument, which refers to the physical evidence of the corner's location on the ground.

Deed—an instrument in writing which, when executed and delivered, conveys an estate in real property or interest therein.

Description, Legal—a written description usually contained in an act of conveyance, judgment of possession, or recognized by law which definitely locates property by metes and bounds or by reference to government surveys, coordinate systems or recorded maps; a description which is sufficient to locate the property without oral testimony.

Description, Metes and Bounds—a description of a parcel of land by reference to course and distances around the tract, or by reference to natural or record monuments.

Encroachment—any structure or obstruction which intrudes upon, invades or trespasses upon the property of another.

May—when used means that a choice on the part of the land surveyor is allowed.

Monument—a physical structure which marks the location of a corner or other survey point. In public-land surveys, the term *corner* is employed to denote a point determined by the surveying process, whereas the *monument* is the physical structure erected to mark the corner point upon the earth's surface. Monument and corner are not synonymous, though the two terms are often used in the same sense.

Positional Accuracy—the difference between the actual position of a monument and the position as reported on the plat.

Positional Tolerance—the distance that any monument may be mislocated in relation to any other monument cited in the survey.

Prescription—title obtained in law by long possession. Occupancy for the period prescribed by the Louisiana Civil Code, as sufficient to bar an action for the recovery of the property, gives title by prescription.

Right of Way—any strip or area of land, including surface, overhead, or underground granted by deed or

easement for construction and maintenance according to the designated use.

Servitude—a nonpossessing interest held by one person in land of another whereby the first person is accorded partial use of such land for a specific purpose. A servitude restricts but does not abridge the rights of the fee owner to the use and enjoyment of his land. The term easement is often used interchangeably with servitude and means the same thing.

Shall—the subject is imperative or mandatory and must be done by the land surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:713 (August 1996), LR 27:

§2905. Classification of Surveys

A. Presented below are categories which define the degree of accuracy which should be attained for surveys performed in Louisiana. These classifications are based upon the purposes for which the property is being used at the time the survey is performed and any proposed developments which are disclosed by the client. Refer to this Chapter for accuracy standards for each of the following classes of surveys.

1. Class A Surveys. Surveys which require maximum surveying accuracy. This includes, but is not limited to, surveys of urban business district properties and highly developed commercial properties.

2. Class B Surveys. Surveys of properties which justify a high degree of surveying accuracy. This includes, but is not limited to, surveys of commercial properties and higher priced residential properties located outside urban business districts and highly developed commercial areas.

3. Class C Surveys. Surveys of residential and suburban areas. This includes, but is not limited to, surveys of residential areas which cannot be classified as Class A or Class B surveys.

4. Class D Surveys. Surveys of all remaining properties which cannot be classified as Class A, B or C surveys. This includes, but is not limited to, surveys of farm lands and rural areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:714 (August 1996), LR 27:

§2907. Property Boundary Survey

A. Definition

Mineral Unit Survey (or Unit Plat) —a plan showing subsurface mineral boundaries prepared for the specific purpose of allocating mineral rights. A mineral unit survey should not be viewed as a property boundary survey subject to the requirements of the Minimum Standards for Property Boundary Surveys. This does not absolve the professional land surveyor from his/her obligation to use due diligence in the practice of and from complying with all applicable rules and laws pertaining to the practice of land surveying.

Property Boundary Survey—a survey which, after careful study, investigation, and evaluation of major factors influencing the location of boundaries, results in the

deliberate location or relocation on the ground of one or more boundaries. When all the boundaries of a parcel of land are surveyed, an area determination may be included if requested by the client.

B. Purpose. The primary purpose of the property boundary survey is to locate or relocate the physical position and extent of the boundaries of real property, and the discovery of visible evidence of prescriptive rights relating thereto. A property boundary survey may also include the location or relocation of the physical position and extent of political boundaries which define the perimeters of public or private ownership. In addition, the property boundary survey is a means of marking boundaries for sufficient definition and identification to uniquely locate each lot, parcel, or tract in relation to other well recognized and established points of reference, adjoining properties and rights-of-way.

C. Product. A property boundary survey will result in the establishment of monumented corners; point of curvature and tangency; and reference points (see Subsection E, Monuments). In event that no plat of survey is required, the professional land surveyor must maintain adequate records to substantiate his professional opinion in reestablishing boundary lines and corners on a survey. If requested by the client, a boundary survey may also include the following:

1. a signed and sealed metes and bounds written description depicting the surveyed boundary (see Subsection H, Descriptions);
2. a certified map or plat depicting the survey as made on the ground; and
3. a signed and sealed written report of the surveyor's findings and determinations.

D. Research and Investigation. A land surveyor shall be provided the legal description or plats describing the property to be surveyed. The land surveyor shall then evaluate the necessity to obtain the following data based on the specific purpose of the survey:

1. the most recent recorded legal descriptions and plats of the tract to be surveyed and tracts adjoining or in proximity to the property to be surveyed;
2. the recorded legal descriptions of adjoining, severing, or otherwise encumbering servitudes or rights-of-way, including but not limited to, highways, roadways, pipelines, utility corridors, and waterways used for drainage, navigation or flood control. Where the purpose of a survey neither requires nor includes research and investigation of servitudes, a note to that effect shall be placed upon the plat of survey; and
3. grants, patents, subdivision plats or other recorded data that will reference or influence the position of boundary lines.

E. Monuments. Monuments set or called for, whether artificial or natural, represent the footsteps of the land surveyor and his/her professional opinion as to the proper location of the points or corners of a property boundary survey. The following guidelines for monumentation of property boundary surveys shall be observed.

1. Natural monuments are objects which are the works of nature, such as streams, rivers, ponds, lakes, bays, trees, rock outcrops, and other definitive topographic features.
2. Artificial monuments are relatively permanent objects used to identify the location of a corner. Artificial monuments must retain a stable and distinctive location and

must be of sufficient size and composition to resist the deteriorating forces of nature.

3. The following guidelines apply to artificial monuments to be set.

a. Monuments of a ferrous material must have at least 1/2 inch outside diameter, and must be at least 18 inches in length (longer in soft or unstable soil).

b. Concrete monuments must be at least three inches in width or diameter by 24 inches in length, reinforced with an iron rod at least 1/4 inch in diameter, and may contain a precise mark on top indicating the exact location of the corner.

c. Marks on existing concrete, stone, or steel surface must consist of drill holes, chisel marks or punch marks and must be of sufficient size, diameter or depth to be definitive, stable and readily identifiable as a survey monument. Marks on asphalt roads may consist of railroad spikes, large nails, "PK nails", or other permanent ferrous spikes or nail-like objects.

d. It is unacceptable to set wooden stakes as permanent boundary monuments.

e. Monuments must be set vertically whenever possible and the top may be reasonably flush with the ground when practical. Monuments subject to damage from earthwork, construction or traffic should be buried at a sufficient depth to offer protection.

f. When physically impossible to set a monument at the corner, witness monuments shall be set when possible, preferably on each converging line at measured distances from the corner and identified as such in the description and on the plat of the property.

F. Field Procedures. All field work shall be performed in accordance with accepted modern surveying theory, practice and procedures. Any person in charge of a field party shall be well-trained in the technical aspects of surveying. Every professional land surveyor under whose responsible charge a survey is conducted is also required to adhere to the following.

1. All field measurements of angles and distance shall satisfy the closures and tolerances expressed in this Chapter.

2. In performing resurveys of tracts having boundaries defined by lines established in public lands surveys, the land surveyor shall, as nearly as possible, reestablish the original lines of any prior survey made under United States or state authority. In all townships or portions of townships where no survey has been made, the land surveyor, in surveying or platting the township or portion thereof, shall make it conform as nearly as practicable to the lots and section indicated upon the plats according to which the lands were granted by the state or by the United States. (R.S.50:125)

3. Where applicable, surveys necessitating the division of a section, shall be performed in accordance with the instructions for the subdivisions of sections as published by the United States Department of the Interior, Bureau of Land Management, in its book entitled *Manual of Instruction for Survey of the Public Lands of the United States*, and all applicable federal laws.

4. Special consideration shall be afforded by the rules of evidence and "hierarchy of calls" before any decision is made regarding property boundaries. "... The legal guides for determining a question of boundary or the location of a land line in order of their importance and value are: 1—natural

monuments, 2—artificial monuments, 3—distances, 4—courses, 5—quantity. But the controlling consideration is the intention of the parties." (See citation in *Myer vs. Comegys*, 147 La. 851, 86 So. 307, 309 (1920))

5. A careful search shall be made for corner monuments affecting the location of the boundaries of land to be surveyed. Any evidence discovered shall be evaluated for its agreement in description and location with the call in the relevant deeds and/or plats.

6. All boundary discrepancies, visible encroachments, and visible indications of rights which may be acquired through prescription or adverse possession must be physically located. All evidence of servitudes that is visible without meticulous searching is to be physically located during the survey. Furthermore, nonvisible servitudes need to be located only upon the client's specific request.

7. All field data gathered shall satisfy the requirements of the following Subsection on plats, maps, and drawings.

G. Plats, Maps, and Drawings. Every original plat or map of a boundary survey should be a reproducible drawing at a suitable scale which clearly shows the results of the field work, computations, research and record information as compiled and checked. The plat map or drawing shall be prepared in conformity with the following guidelines.

1. Any reasonably stable and durable drawing paper linen or film of reproducible quality will be considered suitable material for boundary survey plats and maps.

2. No plats or maps shall have dimensions less than 8 inches by 10½ inches.

3. All dimensions, bearings or angles, including sufficient data to define the curve shall be neatly and legibly shown with respect to each property or boundary line. When possible, all bearings shall read in a clockwise direction around the property. All lines and curves shall show sufficient data on the map to calculate a map closure.

4. Monuments shall be labeled as "found" or "set" with a brief definitive description of the monument and relevant reference markers, if any, along with their position in relation to the corner. This description shall include the physical characteristics of the monument and its relevance to the survey.

5. When the purpose of the survey dictates, all pertinent natural or man-made features located during the course of the field survey (water courses, streets, visible utilities, etc.) shall be labeled or represented by an appropriate symbol on the plat in its proper location. When appropriate, the feature should be dimensioned and referenced to the nearest property line.

6. All maps or plats must show a north arrow and it is recommended that the drawings be oriented so that north is toward the top of the sheet.

7. A statement indicating the origin of angles or bearings shall be shown on each plat, map, or drawing. If bearings are used, the basis of the bearing shall include one or more of the following:

a. reference to true north as computed by astronomic observation within one mile of the surveyed site;

b. reference to the Louisiana State Coordinate System with the proper zone and controlling station(s) noted;

c. reference to the record bearing of a well-established line found monumented on the ground as called for in a relevant deed, or survey plat;

d. when none of the above alternatives are practical, a magnetic bearing (corrected for declination) may be used.

8. If a coordinate system other than the Louisiana State Coordinate System is used on a map, that system must be identified. If that system is the Louisiana State Coordinate System, the appropriate zone must be shown on the map.

9. Where the new survey results differ from the prior deed information in regard to course, distance, location or quantity, the plat shall indicate such differences or discrepancies.

10. Where separate intricate details, blowups or inserts are required for clarity, they shall be properly referenced to the portion of the map where they apply. This applies particularly to areas where lines of occupation do not conform to deed lines and to areas where a comparison of adjoining deeds indicates the existence of a gap or an overlap.

11. Cemeteries and burial grounds known by the surveyor to be located within the premises being surveyed shall be indicated on the plat. However, a detailed survey of the limits of the cemetery shall not be required unless directed by the client.

12. When the purpose of the survey dictates, properties, water courses and rights-of-way surrounding, adjoining, or severing the surveyed site shall be identified. Private lands or servitudes should be labeled with the name of the owner or with a reference to the deed under which ownership is held, provided that such information is furnished by the client.

13. Original section, grant, subdivision or survey lines, when an integral part of the deed, shall be shown in proper location with pertinent labeling. A measurement of course and distance must be shown to a parent tract corner, block corner, section corner, subdivision or grant corner, and existing monuments shall be indicated.

14. Differing line weights or delineating letters or numbers (A, B, C, etc. or 1, 2, 3, etc.) shall be used to clearly show the limits of what is being surveyed.

15. Each plat, map or drawing shall show the following:

a. caption or title;

b. client and/or purpose;

c. general location of the property (or vicinity map);

d. the date of the survey;

e. the name, location and license number of the professional land surveyor; and

f. signature and impression seal of the professional land surveyor under whose direction the survey was done.

16. Final plats or maps issued to the client must contain a certificate signed and sealed by the professional land surveyor certifying its authenticity (that it represents his/her survey) and stating that the survey is in accordance with the applicable standards of practice as stipulated in this publication based on the current survey "classification" (see §2905 on Classification of Surveys).

H. Descriptions. A written legal description of the surveyed tract of land must provide information to properly locate the property on the ground and distinctly set it apart from all other lands. The following guidelines apply.

1. When the surveyed property's dimensions, boundaries and area are in agreement with the existing recorded deed or platted calls, the existing recorded description may be used if it approximates the standards contained herein.

2. When the property is an aliquot part of a rectangular section or a lot in a platted subdivision, the aliquot method or the lot, block and subdivision method (including recordation data) of describing the property can be used. Metes and bounds descriptions of this type of property are optional.

3. Every aliquot description must contain the following basic information: aliquot part of section, township, range, parish, land district and meridian (if applicable), parish and state.

4. Every subdivision lot description must also contain the following basic information: lot, block, unit (if applicable), name of subdivision, city (if applicable), parish and state.

5. Every metes and bounds description may be written in at least two parts. The first part, called the "General Description," should indicate the general location of the property by naming the particular lot or block, within which it is located if in a subdivision or by naming the grant or aliquot part of a rectangular section within which it is located, along with the township, range, land district and meridian (if applicable), city (if applicable), parish and state. The second part called the "Particular Description," shall logically compile and incorporate calls for the following:

- a. courses and distances of the new survey, preferably in a clockwise direction;
- b. adjoining apparent rights-of-way or servitudes;
- c. monuments (when controlling), including descriptions of type, size, material, reference monuments (if applicable), and whether found, set or replaced;
- d. parenthetical deed calls where the deed calls differ from the new survey; and

e. the area, if stated, shall be in square feet or acres or hectares within the tolerances specified in this Chapter.

6. The "Point of Beginning" should be the property corner that is most accessible and most easily identifiable by interested parties. This point shall be carefully chosen and described in a manner which will distinguish it indisputably from any other point. The "Commencing Point" shall be any identifiable point used to locate the "Point of Beginning."

7. The courses in the written description shall be as brief and yet as explanatory as the land surveyor can construct. Brevity should not cause important locative information to be omitted, and explanatory phrases should not enlarge the description to the extent of confusion.

8. Curved boundaries shall be identified as tangent or non-tangent curves, and sufficient data to define the curve shall be presented.

9. Each metes and bounds description must return to the Point of Beginning and close mathematically within the tolerances stated in this Chapter.

10. A statement at the end of the description should connect the description to the specific survey on which it is based and to the map or plat which depicts the survey. Such a statement may be phrased:

"This description is based on the boundary survey and plat made by _____(name)_____ Professional Land Surveyor, dated _____." or "This description is based on plat recorded" _____ (give recordation data).

11. The metes and bounds description shall then be signed and sealed by the land surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:714 (August 1996), LR 27:

§2909. Accuracy Specification and Positional Tolerances

Condition	A Urban Business District	B Urban	C Suburban	D Rural	Remarks And Formula
Unadjusted Closure (maximum allowable)	1:15,000	1:10,000	1:7,500	1:5,000	Traverse Loop or between Control Monuments
Angular Closure (maximum allowable)	10"√N	15"√N	25"√N	30"√N	N = Number of Angles in Traverse
Accuracy of Bearing	± 15 Sec.	± 20 Sec.	± 30 Sec.	± 40 Sec.	In Relation to Source
Linear Distances Accurate to: (maximum allowable)	0.05 ft ± 0.05 ft per 1,000 ft	0.05 ft ± 0.1 ft per 1,000 ft	0.07 ft + ± 0.15 ft per 1,000 ft	0.1 ft + ± 0.2 ft per 1,000 ft	Applies when the Distance is not part of a Closed Traverse
Positional Tolerance and Positional Accuracy of any Monument (maximum)	0.1' + AC/15,000	0.1' + AC/10,000	0.1' + AC/7,500	0.2' + AC/5,000	AC = Length of Any Course*
Calculation of area - Accurate and carried to nearest ____ (decimal place) of an acre	0.001 .001 .01 .1	0.001 .001 .01 .1	0.001 .01 .1 .2	0.001 .01 .1 .3	To 1 acre To 10 acres To 100 acres To 1,000 acres
Elevations for Boundaries Controlled by Tides, Contours, Rivers, etc. Accurate to:	0.2 ft.	0.3 ft.	0.4 ft.	0.5 ft.	Based on Accepted Local Datum
Location of Improvements, Structures, Paving, etc. (Tie Measurements) Adjusted Mathematical Closure to Survey (Minimum)	± 0.1 ft. 1:50,000	± 0.2 ft. 1:50,000	± 0.5 ft. 1:50,000	± 1 ft. 1:50,000	

* Short courses in categories "A" and "B" may generate positional errors of less than 0.01 feet. A minimum course distance of 200 feet should be used in calculating positional error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1068 (December 1990), amended LR 22:716 (August 1996), LR 27:

Chapter 31. Continuing Professional Development (CPD)

§3101. Introduction

A. This Chapter provides for a continuing professional development (CPD) program to insure that all professional engineers practicing engineering and professional land surveyors practicing land surveying be informed of those technical and professional subjects necessary to safeguard life, health and property and promote the public welfare. Beginning on January 1, 1999, every licensee shall meet the continuing professional development requirements of this Chapter as a condition for license renewal.

B. The primary purpose of licensing for professional engineers and professional land surveyors is to protect the public from unqualified or unethical practitioners. The requirement for continuing professional development is also intended to protect the public by reinforcing the need for lifelong learning in order to stay more current with changing technology, equipment, procedures, processes, tools, and established standards. This Chapter provides flexibility in selecting among a broad range of activities that are intended to strengthen or maintain competency in technical, managerial (business) or ethical endeavors. Licensees are

encouraged to select meaningful CPD activities which will be of benefit in the pursuit of their chosen fields.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended LR 27:

§3103. Definitions

A. Terms used in this Chapter are defined as follows.

Acceptable Activity—subject matter which is technical in nature or addresses business management practices, professional ethics, quality assurance, codes or other similar topics which facilitate the licensee's professional development as a professional engineer or professional land surveyor, and/or serves to safeguard life, health and property and promote the public welfare. Any *Course/Activity* offered or approved by a *Board-Approved Sponsor/Provider* will qualify as an *Acceptable Activity* (see definition of *Board Approved Sponsor/Provider*). It will be the responsibility of the licensee to determine if a *Course/Activity* offered by an unapproved sponsor/provider is an *Acceptable Activity*.

Board—Louisiana Professional Engineering and Land Surveying Board.

Board-Approved Sponsor/Provider—the Louisiana Engineering Society; the Louisiana Society of Professional Surveyors; professional and technical engineering or land surveying societies; federal, state or local governmental agencies; colleges or universities; and any individual, firm, corporation or educational institution approved by the board

on a case-by-case basis. All sponsors/providers must conduct courses which will enhance and improve a licensee's professional development as a professional engineer or a professional land surveyor, and/or serve to safeguard life, health and property and promote the public welfare. Failure to do so will be grounds for the board to revoke its sponsorship/provider approval.

Continuing Education Unit (CEU) —a unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of in-class time in approved continuing education courses.

Continuing Professional Development (CPD) —the educational process whereby a professional engineer or professional land surveyor licensee engages in a continuing program to maintain, improve or expand skills and knowledge.

Course/Activity—any program with a clear purpose and objective which will maintain, improve or expand the skills and knowledge relevant to the licensee's field of practice.

Dual Licensee—a person who is licensed in both land surveying and one or more disciplines of engineering.

License Status—

a. *Active Status*—a licensee of the board as defined in §2103.

b. *Expired Status*—a licensee of the board as defined in §2103.

c. *Inactive Status*—a licensee of the board as defined in §2103.

d. *Retired Status*—a licensee of the board as defined in §2103.

Professional Development Hour (PDH) —a nominal contact hour of instruction, presentation, or activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended LR 27:

§3105. Requirements

A. During each biennial licensure renewal period, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 30 PDHs in engineering related activities.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. A minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

B. During each biennial licensure renewal period, every professional land surveyor licensee is required to obtain 15 PDHs in land surveying related activities.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional land surveyor.

2. A minimum of four PDHs shall be earned in the Minimum Standards for Property Boundary Surveys in Louisiana during any two consecutive biennial periods.

C. During each biennial licensure renewal period, each dual licensee shall obtain 30 PDHs; however, at least one-third of the PDHs shall be obtained separately for each profession.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer and/or professional land surveyor.

2. A minimum of two PDHs shall be earned in the Minimum Standards for Property Boundary Surveys in Louisiana.

3. A minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

D. Excess PDHs

1. If a licensee exceeds the biennial licensure renewal period requirements, a maximum of 15 PDHs may be carried forward into the subsequent biennial licensure renewal period.

2. Excess PDHs may include, without limitation, those obtained in professional ethics, Minimum Standards for Property Boundary Surveys in Louisiana, Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines.

E. Licensees will be required to verify compliance with these CPD requirements at the end of their first full biennial licensure renewal period which begins after the effective date of these rules and at the end of each subsequent biennial licensure renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended LR 27:

§3107. Reciprocity/Out-of-Jurisdiction Resident

A. The continuing professional development requirements for Louisiana will be deemed as satisfied when a non-resident engineer or land surveyor provides evidence of having met the requirements of the licensee's resident jurisdiction; provided, however, that as part of satisfying these requirements, non-residents practicing engineering in Louisiana who design buildings and/or building systems in Louisiana must meet the requirements of §3105.C.3, as applicable, and non-residents practicing land surveying in Louisiana must meet the requirements of §3105.B.2.

B. If the non-resident engineer or land surveyor resides in a jurisdiction that has no continuing professional development requirements applicable to that licensee, the licensee must meet all requirements of Louisiana as set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended LR 27:

§3109. Exemptions

A. A licensee may be exempt from the continuing professional development requirements for any one of more of the following reasons.

1. New licensees shall be exempt at their first renewal. Compliance with the CPD requirements must be certified upon the licensee's second renewal and thereafter.

2. Licensees serving on active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a biennial licensure renewal period shall be exempt from obtaining the PDHs required during that biennial licensure renewal period.

3. Licensees experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board.

4. Licensees who certify their status as *Inactive* on the board-approved renewal form and who further certify that they are no longer offering or practicing professional engineering and/or professional land surveying in Louisiana shall be exempt. In the event such a person elects to return to *Active Status*, the licensee must meet the requirements set forth in §3121.

5. Licensees who certify their status as *Retired* on the board-approved renewal form and who further certify that they are no longer offering or practicing professional engineering and/or professional land surveying in Louisiana shall be exempt. In the event such a person elects to return to *Active Status*, the licensee must meet the requirements set forth in §3121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended LR 27:

§3111. Determination of Credit

A. PDHs may be earned as indicated in §3113 for the following *Acceptable Activities*:

1. successful completion of college courses, correspondence courses, continuing education courses, seminars, tutorials, short courses and/or by teaching/instructing these items;

2. attending or presenting qualifying seminars; in-house courses sponsored by corporations, governmental agencies or other organizations; workshops; or professional/technical presentations made at meetings, conventions, or conferences;

3. obtaining teaching credit for teaching/instructing or presenting. To obtain credit for teaching/instructing or presenting, licensees must be able to document that research and preparation were necessary, such as in the case of first-time teaching;

4. membership in engineering and land surveying professional associations or technical societies;

5. authoring and publishing articles in engineering or land surveying journals;

6. obtaining patents; and

7. formal, documented problem preparation for NCEES or state professional exams.

B. PDHs may not be earned through informal, non-structured activities such as reading technical journals.

C. The board has final authority with respect to the acceptability of courses, PDH credit, PDH value for courses, and other methods of earning credit. PDH credit for acceptable college or correspondence courses may be based upon course credit established by the college or school.

D. Selection of activities is the responsibility of the licensee; however, guidance is available from the board (see §3103, *Acceptable Activity*, and §3111.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended LR 27:

§3113. Units

A. The conversion of other units of credit to PDHs is as follows.

1. One college or unit semester hour = 45 PDHs.

2. One college or unit quarter hour = 30 PDHs.

3. One Continuing Education Unit = 10 PDHs.

B. PDH credit will be awarded as follows.

1. Fifty contact minutes of instruction or verified attendance at an activity, or problem preparation for a NCEES or state professional exam = one PDH. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for problem preparation.

2. Membership in engineering and land surveying professional associations or technical societies = one PDH per biennial licensure renewal period for each professional or technical association or society. A maximum of three PDHs will be allowed per biennial licensure renewal period for all such memberships.

3. In accordance with §3111.A.1-3, credit for teaching or making presentations may be earned at twice the PDHs allowed for attending a course, but shall not exceed 30 PDHs in any biennial licensure renewal period.

4. Authoring and publishing peer reviewed (refereed) articles/papers in engineering or land surveying journals = 10 PDHs.

5. Authoring and publishing non-peer reviewed (nonrefereed) articles/papers in engineering or land surveying journals = 5 PDHs.

6. Each patent = 10 PDHs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended LR 27:

§3115. Record Keeping

A. All licensure renewal applications will require the completion of a board-approved renewal form. This form will contain an affirmation of eligibility certifying that the licensee has met all requirements for licensure renewal, including CPD requirements.

B. In addition, the licensee will be required to maintain and document a worksheet form specified by the board outlining PDHs claimed. The licensee must:

1. supply sufficient detail on the form to permit audit verification;

2. certify and sign the form; and

3. submit the form to the board upon request.

C. Maintaining records to be used to support PDHs claimed is the responsibility of the licensee. These records must be maintained for at least three consecutive biennial licensure renewal periods (six years) and copies may be requested by the board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended LR 27:

§3117. Audit and Review of Records

A. The board may request, at any time, that a licensee provide proof of compliance with all CPD requirements.

B. Additionally, the board will conduct random audits of biennial renewals of up to 30 percent of all board licensees.

C. Additionally, the board will require that all licensees against whom formal disciplinary charges are pending in Louisiana provide proof of compliance with all CPD requirements.

D. Should the licensee fail to provide proof of compliance, or if discrepancies or deficiencies are discovered as the result of any of the reviews provided for in §3117.A-C, the licensee will be deemed not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended LR 27:

§3119. Failure to Comply

A. When a licensee is deemed not in compliance with the CPD requirements of the board, the licensee will be so notified and will be given 120 days to satisfy the board requirements. The licensee must provide documented evidence of compliance accompanied by the licensee's affidavit attesting to such compliance and payment of an administrative fee of \$200. Failure to comply will subject the licensee to disciplinary action as provided in the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended LR 27:

§3121. CPD Reinstatement

A. To become reinstated, an *Expired, Inactive, or Retired* licensee must show proof of having obtained all delinquent PDHs; however, the maximum number required will be the number of PDHs required for one biennial licensure renewal period as provided in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended LR 27:

Chapter 33. Disciplinary Actions

§3301. Disciplinary Actions

A. Any disciplinary actions initiated by the board will be governed by the substantive and procedural provisions of the licensure law and by the provisions of the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:117 (May 1979) amended LR 6:149 (April 1980), LR 7:649 (December 1981), LR 27:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the Louisiana Register:

The proposed rules have no known family impact on family formation, stability or autonomy.

Interested parties are invited to submit written comments on the proposed rules through May 25, 2001 at 4:30 p.m., to H. Glen Kent, Executive Secretary, Louisiana Professional Engineering And Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

John D. Radford
Deputy Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Board Revisions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs(savings) are expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is expected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs or benefits are expected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is expected.

Hollis G. Kent, Jr.
Executive Secretary
0104#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – MARCH 2001

LAC Title	Part.Section	Effect	Location LR 27 Month Page	LAC Title	Part.Section	Effect	Location LR 27 Month Page
4	VII.1199	Amended	Jan. 50	33	IX.2801-2809,2381-2385	Adopted	Jan. 45
7	XV.327	Adopted	Mar. 280	34	VII.307	Repromulgated	Jan. 49
	XXIII.143,147	Amended	Mar. 279	40	I.5157	Amended	Mar. 314
	XXIII.Chapter 3	Amended	Feb. 182	42	VII.2933	Amended	Feb. 204
	XXIII.305	Repealed	Feb. 182		VII.2901	Amended	Jan. 58
	XXIX.Chapter 15	Adopted	Jan. 31		IX.2417,2901	Amended	Jan. 58
22	I.341-365	Adopted	Mar. 413		IX.2939	Amended	Feb. 204
	I.Chapter 23	Adopted	Mar. 409		XI.2405	Amended	Jan. 61
	III.4703	Amended	Jan. 49		XI.2407	Amended	Feb. 204
28	I.103	Amended	Mar. 283		XI.2901	Amended	Jan. 58
	I.901	Amended	Jan. 32		XIII.2933	Amended	Feb. 204
	I.901	Amended	Feb. 184	46	I.1505	Amended	Mar. 280
	I.901	Amended	Feb. 185		XXI.Chapter 3	Amended	Feb. 183
	I.901	Amended	Feb. 185		XXXV.103,105,903,1303	Amended	Feb. 193
	I.901	Amended	Feb. 187		XXXV.1401-1409,1503	Amended	Feb. 193
	I.901	Amended	Feb. 187		XLVII.3331	Amended	Feb. 202
	I.903	Amended	Mar. 281		LXXXV.Chapters 1-7	Amended	Feb. 196
	I.903	Amended	Mar. 282		LXXXV.700,705	Amended	Jan. 51
	IV.301,509,703,803,2103	Amended	Jan. 36	48	I.9704	Adopted	Mar. 311
	IV.301,509,903	Amended	Mar. 284		I.Chapter 171	Amended	Mar. 312
	V.109	Amended	Jan. 35		V.7001-7007	Amended	Jan. 52
	VI.107,307,311	Amended	Jan. 37		V.Chapter 119	Adopted	Mar. 308
	VI.209	Amended	Feb. 191	55	I.2101	Adopted	Feb. 205
	XXV.303	Amended	Feb. 187		I.Chapter 23	Adopted	Feb. 205
	XLIII.130,1431,1441,1449,2001	Amended	Jan. 34		I.2323	Adopted	Mar. 424
33	I.3917	Repromulgated	Jan. 38		III.Chapter 1	Adopted	Jan. 62
	III.223	Repromulgated	Feb. 192		IX.121	Amended	Mar. 422
	III.2131	Amended	Feb. 192		IX.1501,1513,1519,1531	Amended	Mar. 423
	III.2811	Repromulgated	Jan. 38	61	III.101	Adopted	Feb. 207
	V.105,109,110,322,529,535,537	Amended	Mar. 290		III.1503	Amended	Mar. 428
	V.Chapter 4	Adopted	Mar. 284		III.1513	Repealed	Mar. 428
	V.517,5111	Amended	Mar. 284		III.5383	Adopted	Mar. 428
	V.903,915,917,919	Repealed	Jan. 41	67	III.2529,2531	Amended	Jan. 81
	V.905,907,913,1107,1111	Amended	Jan. 41		III..Chapter 52	Adopted	Mar. 429
	V.905,1109,1127,1531,1705,1531	Amended	Mar. 290		VII.109	Amended	Feb. 210
	V.1309	Repromulgated	Jan. 41	76	V.101,501	Adopted	Feb. 214
	V.1705,2214,2245,3001,3003	Amended	Mar. 290		VII.407	Amended	Feb. 215
	V.3011,3025,3105,3115,3203	Amended	Mar. 290		VII.517	Adopted	Feb. 214
	V.3809,3813,3821,3823,3843	Amended	Mar. 290		VII.517	Repromulgated	Mar. 431
	V.3845,4513,4901,4909	Amended	Mar. 290				
	VII.727,1109	Repromulgated	Jan. 38				
	IX.1113,1123	Amended	Mar. 288				
	IX.2331	Amended	Jan. 45				
	IX.2341	Repromulgated	Jan. 38				

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Division

Annual Quarantine Listing—2001

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

Sweetpotato Weevil

(*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

Pink Bollworm

(*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

(1) Generally infested area: the entire state.

California

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

Nevada

(1) Generally infested area: The entire counties of Clark and Nyle.

(2) Suppressive area: None.

New Mexico

(1) Generally infested area: The entire state.

Oklahoma

(1) Generally infested area: The entire state.

Texas

(1) Generally infested area: The entire state.

Phytophagous Snails

The states of Arizona and California.

Sugarcane Pests and Diseases

All states outside of Louisiana.

Lethal Yellowing

The states of Florida and Texas.

Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

Oak Wilt (*Ceratocystis fagacearum*)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

Illinois

Entire state.

Indiana

Entire state.

Iowa

Entire state.

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

Infected counties: Allegany, Frederick, Garrett, and Washington.

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

Entire state.

Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

Entire state.

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties: all counties except Tucker and Webster.

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

Citrus Canker (*Xanthomonas axonopodis* pv. *citri*)

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

Pine Shoot Beetle [*Tomicus piniperda* (L.)]

Illinois

Counties of Boone, Bureau, Cook, Champaign, De Kalb, DuBage, Grundy, Iroquois, Kane, Kankakee, Kendall, La Salle, Lake, Lee, Livingston, McHenry, McLean, Ogle, Piatt, Platt, Putnam, Stephenson, Will, Winnebago, Woodford and Vermillion.

Indiana

Counties of Adams, Allen, Benton, Blackford, Carroll, Cass, Dekalb, Delaware, Elkhart, Fountain, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jasper, Jay, Johnson, Kosciusko, Lagrange, Lake, LaPorte, Madison, Marion, Marshall, Miami, Montgomery, Newton, Noble, Parke, Porter, Pulaski, Randolph, Rush, Shelby, St. Joseph, Starke, Steuben, Tippecanoe, Tipton, Vermillion, Wabash, Warren, Wayne, Wells, White and Whitley.

Maryland

Counties of Allegany, Garrett and Washington.

Michigan

Counties of Alcona, Allegan, Alpena, Antrim, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Chippewa, Cheboygan, Clare, Clinton, Crawford, Delta, Eaton, Emmet, Genesee, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kalkasa, Kent, Lake, Lenawee, Lapeer, Leelanau, Livingston, Luce, Mackinac, Macomb, Manistee, Marquette, Mason, Mecosta, Midland,

Missaukee, Monroe, Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Roscommon, Saginaw, Sanilac, Schoolcraft, Shiawassee, St. Clare, St. Joseph, Tuscola, Van Buren, Washtenaw, Wayne and Wexford.

New Hampshire

County of Coos.

New York

Counties of Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Cortland, Erie, Genessee, Jefferson, Lewis, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, Wyoming and Yates.

Ohio

Counties of Allen, Ashland, Ashtabula, Auglaize, Belmont, Cameron, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Defiance, Delaware, Erie, Fulton, Geauga, Hancock, Hardin, Harrison, Henry, Hocking, Holmes, Huron, Jefferson, Knox, Lake, Licking, Logan, Lorain, Lucas, Mahoning, Marion, Medina, Mercer, Morgan, Morrow, Noble, Ottawa, Paulding, Perry, Portage, Putnam, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Tuscarawas, Union, Van Wert, Wayne, Williams, Wood and Wyndot.

Pennsylvania

Counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Somerset, Tioga, Venango, Warren, Washington and Westmoreland.

Vermont

Counties of Essex and Orleans.

West Virginia

Counties of Brooke, Hancock, Marshall, Ohio, Tucker and Tyler.

Wisconsin

Counties of Grant, Green and Rock.

Any other areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

Matthew Keppinger III
Assistant Commissioner and
State Entomologist

Bob Odom
Commissioner

0104#020

POTPOURRI

**Office of the Governor
Division of Administration
Office of Community Development**

Public Hearings—HUD Funded Programs

As set forth in 24 CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into

one master plan called the Consolidated Plan. In Louisiana the four state agencies participating in this consolidated planning process and the HUD-funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV/AIDS Program (Housing Opportunities for Persons with AIDS Program). A summary of the four programs follows.

The Small Cities Community Development Block Grant Program provides financial assistance to parishes of less than 200,000 persons and municipalities with a population of less than 50,000 in their efforts to provide a suitable living environment, decent housing, essential community facilities, and expanded economic opportunities. Eligible activities include community infrastructure systems such as water, sewer, and street improvements, community centers, housing rehabilitation, and economic development assistance in the form of grants and loans. Projects funded under this program must principally benefit persons of low and moderate income.

The objectives of the Home Investment Partnerships Program are:

1. to expand the supply of decent and affordable housing for low and very low income persons;
2. to stabilize the existing deteriorating owner occupied and rental housing stock through rehabilitation;
3. to provide financial and technical assistance to recipients/subrecipients; and
4. to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The purpose of the Emergency Shelter Grants Program is to help local governments and community organizations to improve and expand shelter facilities serving homeless individuals and families, to meet the cost of operating homeless shelters, to provide essential services, and to perform homeless prevention activities.

The Housing Opportunities for Persons with AIDS Program provides localities with the resources and incentives to devise and implement long-term comprehensive strategies for meeting the housing needs of persons with acquired immuno-deficiency syndrome (AIDS) or related diseases and their families.

The four agencies implementing these programs are preparing their consolidated annual performance and evaluation report for the FY 2000 program year which ended March 31, 2001. The purpose of that document is to report on the progress the State has made in addressing the goals and objectives identified in its Consolidated Plan for FY 2000 - FY 2004 and FY 2000 Consolidated Annual Action Plan.

The four agencies administering these programs are also beginning to prepare the Consolidated Annual Action Plan for FY 2002. The Consolidated Annual Action Plan will include a one year action plan for the proposed distribution

of funds received under the FY 2002 federal funding allocation for the aforementioned four HUD programs.

The State will hold public hearings for a two-fold purpose regarding these programs.

The first purpose of the hearings will be to receive comments on the State's performance during the FY 2000 program year. Copies of the consolidated annual performance and evaluation report will be available for review and each agency will present a summary of its accomplishments as identified in the performance report. For those persons who are unable to attend the public hearings, copies of the performance report will be available for review beginning May 7, 2001, at the Office of Community Development, State Capitol Annex, 1051 North Third Street, Room 168 in Baton Rouge, at the Louisiana Housing Finance Agency at 200 Lafayette Street, Suite 300 in Baton Rouge, at the Department of Social Services/Office of Community Services at 333 Laurel Street, Room 821 in Baton Rouge, and at the Department of Health and Hospitals/HIV/AIDS Program Office at 234 Loyola Avenue, Fifth Floor in New Orleans. Written comments on the performance report may be submitted beginning May 7, 2001, and will be accepted until May 23, 2001. Comments may be mailed to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095 or faxed to 225-342-1947.

The second purpose of the hearings will be to obtain views on the housing and community development needs throughout the State; those comments will assist the agencies in developing the Consolidated Annual Action Plan for FY 2002. For those persons who are unable to attend the public hearings, written comments on the needs of the State may be submitted beginning May 7, 2001, and will be accepted until May 23, 2001. Written comments may be mailed to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095 or faxed to 225-342-1947.

The public hearings will be held on May 7, 2001, at 1:30 p.m. in the meeting room of the West Baton Rouge Parish Library, 830 North Alexander Avenue, Port Allen, Louisiana, and at 1:30 p.m. on May 8, 2001, in the Council Chambers at the Pineville City Hall, 910 Main Street, Pineville, Louisiana. These facilities are accessible to persons with physical disabilities. Non-English speaking persons and persons with other disabilities requiring special accommodations should contact the Office of Community Development at 225-342-7412 or TDD 225-342-7422 or at the mailing address or fax number in the preceding paragraph at least five working days prior to each hearing.

Mark C. Drennen
Commissioner of Administration

0104#024

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
The Anschutz Corporation	Wildcat	L	S/L 6308	001	147404
Kelvin Beard	Justina	M	Fisher Lbr Corp SWD	005	197673
CWJ Operating Co., Inc.	Caddo Pine Island	S	Herold Estate	001	204344
CWJ Operating Co., Inc.	Caddo Pine Island	S	ROD RB SUA:USA	001	207804
Caddo Oil Co., Inc.	Caddo Pine Island	S	Noel Estate	002	047042
Channel Exploration Company	Bethel Church	M	VUA; Berry	004	208942
Channel Exploration Company	West Clarks	M	Manville Z SWD	001	189369
Channel Exploration Company	Standard	M	IPB Law SWD	002	178192
Jackson Well Service	Longwood	S	Miller	001	065343
Jackson Well Service	Longwood	S	Miller	002	065344
Jackson Well Service	Longwood	S	Miller	003	066239
Jackson Well Service	Longwood	S	Miller	004	066240
Jackson Well Service	Caddo Pine Island	S	Etchison B	006	23682
Jackson Well Service	Caddo Pine Island	S	Harry Lavine	001	24067
Jackson Well Service	Caddo Pine Island	S	Newton C	001	24730
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	002	32617
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	003	32618
Jackson Well Service	Caddo Pine Island	S	Muslow 20	001	33958
Jackson Well Service	Caddo Pine Island	S	Muslow 20	002	34010
Jackson Well Service	Caddo Pine Island	S	Muslow 20	003	34034
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	004	34074
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	005	34075
Jackson Well Service	Caddo Pine Island	S	Muslow 20	004	34100
Jackson Well Service	Caddo Pine Island	S	Newton C	003	34214
Jackson Well Service	Caddo Pine Island	S	John B Files	001	34285
Jackson Well Service	Caddo Pine Island	S	C W Lane	001	34364
Jackson Well Service	Caddo Pine Island	S	Davies	001	34648
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	007	34653
Jackson Well Service	Caddo Pine Island	S	C W Lane	002	34786
Jackson Well Service	Caddo Pine Island	S	Spell	004	34943
Jackson Well Service	Caddo Pine Island	S	Spell	003	35038
Jackson Well Service	Caddo Pine Island	S	Noel Estate	001	35304
Jackson Well Service	Caddo Pine Island	S	Spell M	002	35315
Jackson Well Service	Caddo Pine Island	S	Muslow 20	005	35358
Jackson Well Service	Caddo Pine Island	S	Spell M	003	35413
Jackson Well Service	Caddo Pine Island	S	Muslow 20	007	35491
Jackson Well Service	Caddo Pine Island	S	Muslow 20	008	35747
Jackson Well Service	Caddo Pine Island	S	Muslow 20	009	35748

Jackson Well Service	Caddo Pine Island	S	Muslow 20	010	35820
Jackson Well Service	Caddo Pine Island	S	Muslow 20	011	35821
Jackson Well Service	Caddo Pine Island	S	Caddo Levee Board	001	36095
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	006	36096
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	008	36480
Jackson Well Service	Caddo Pine Island	S	Caddo Levee Board	003	36498
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	011	36694
Jackson Well Service	Caddo Pine Island	S	Etchison B	001	36704
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	012	36705
Jackson Well Service	Caddo Pine Island	S	Davies	002	37141
Jackson Well Service	Caddo Pine Island	S	Etchison B	003	37168
Jackson Well Service	Caddo Pine Island	S	Davies	003	37638
Jackson Well Service	Caddo Pine Island	S	Davies	004	37713
Jackson Well Service	Caddo Pine Island	S	Spell	002	37841
Jackson Well Service	Caddo Pine Island	S	Spell M	001	38131
Jackson Well Service	Caddo Pine Island	S	Muslow 20	012	38560
Jackson Well Service	Caddo Pine Island	S	Spell A	001	38766
Jackson Well Service	Caddo Pine Island	S	Gulf Refg Co.	001	39501
Jackson Well Service	Caddo Pine Island	S	Etchison B	005	39631
Jackson Well Service	Caddo Pine Island	S	Gulf Refg Co.	002	39861
Jackson Well Service	Caddo Pine Island	S	Gulf Refg Co.	003	40419
Jackson Well Service	Caddo Pine Island	S	Gulf Refg Co SWD	004	40543
Jackson Well Service	Caddo Pine Island	S	Gulf Refg Co.	005	40654
Jackson Well Service	Caddo Pine Island	S	Gulf Refg Co.	006	40870
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	009	46170
Jackson Well Service	Caddo Pine Island	S	Spell	005	47147
Jackson Well Service	Caddo Pine Island	S	Spell	006	47285
Jackson Well Service	Caddo Pine Island	S	Spell	007	47484
Jackson Well Service	Caddo Pine Island	S	Spell M	004	49646
Jackson Well Service	Caddo Pine Island	S	Spell M	005	51066
Jackson Well Service	Caddo Pine Island	S	Pickle	001	51372
Jackson Well Service	Caddo Pine Island	S	Newton C	002	51593
Jackson Well Service	Caddo Pine Island	S	Muslow 20	006	51864
Jackson Well Service	Caddo Pine Island	S	Underwood A	001	52317
Jackson Well Service	Caddo Pine Island	S	Thacker	001	52457
Jackson Well Service	Caddo Pine Island	S	Underwood A	002	52991
Jackson Well Service	Caddo Pine Island	S	Homestead	001	53097
Jackson Well Service	Caddo Pine Island	S	Homestead	002	53184
Jackson Well Service	Caddo Pine Island	S	Homestead	004	53367
Jackson Well Service	Caddo Pine Island	S	Homestead	003	53368
Jackson Well Service	Caddo Pine Island	S	Homestead	006	53482
Jackson Well Service	Caddo Pine Island	S	Homestead	009	53540

Jackson Well Service	Caddo Pine Island	S	Homestead	005	53625
Jackson Well Service	Caddo Pine Island	S	Homestead	008	53626
Jackson Well Service	Caddo Pine Island	S	Homestead	007	53633
Jackson Well Service	Caddo Pine Island	S	Muslow 20	014	53693
Jackson Well Service	Caddo Pine Island	S	Underwood A	003	53779
Jackson Well Service	Caddo Pine Island	S	Muslow 20	013	54121
Jackson Well Service	Caddo Pine Island	S	Homestead A SWD	010	54133
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	001	54330
Jackson Well Service	Caddo Pine Island	S	Surrey B	001	54448
Jackson Well Service	Caddo Pine Island	S	Surrey B	002	54449
Jackson Well Service	Caddo Pine Island	S	Homestead	012	54518
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	002	54522
Jackson Well Service	Caddo Pine Island	S	Surrey B	003	54639
Jackson Well Service	Caddo Pine Island	S	Surrey B	004	54640
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	010	54659
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	015	54662
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	004	54716
Jackson Well Service	Caddo Pine Island	S	Pickle	002	54721
Jackson Well Service	Caddo Pine Island	S	Homestead	011	54728
Jackson Well Service	Caddo Pine Island	S	Underwood A	007	54780
Jackson Well Service	Caddo Pine Island	S	Underwood A	005	54781
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	005	54868
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	003	54871
Jackson Well Service	Caddo Pine Island	S	Underwood A	004	55015
Jackson Well Service	Caddo Pine Island	S	Underwood A	006	55016
Jackson Well Service	Caddo Pine Island	S	Muslow 20	015	55222
Jackson Well Service	Caddo Pine Island	S	Muslow 20	016	55223
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	006	55841
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	007	55842
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	009	56225
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	008	56226
Jackson Well Service	Caddo Pine Island	S	Homestead	013	56244
Jackson Well Service	Caddo Pine Island	S	Spell	008	57292
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	010	57506
Jackson Well Service	Caddo Pine Island	S	Muslow 20	018	58379
Jackson Well Service	Caddo Pine Island	S	Spell	010	58936
Jackson Well Service	Caddo Pine Island	S	Caddo Levee Board	004	59623
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	011	61797
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	013	62004
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	014	62005
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	012	62006
Jackson Well Service	Caddo Pine Island	S	Caddo Levee Board	005	63685

Jackson Well Service	Caddo Pine Island	S	Caddo Levee Board	006	63686
Jackson Well Service	Caddo Pine Island	S	Noel Estate	002	63731
Jackson Well Service	Caddo Pine Island	S	Surrey Oil	015	63859
Jackson Well Service	Caddo Pine Island	S	Satellite Oil Co Inc	001	92895
Jackson Well Service	Caddo Pine Island	S	Crystal Oil & Land Co	B-1	98971
Jackson Well Service	Caddo Pine Island	S	Crystal Oil & Land Co	B-2	100067
Jackson Well Service	Caddo Pine Island	S	Sklar Gamm	003	125294
Jackson Well Service	Caddo Pine Island	S	Sklar Gamm	001	125295
Jackson Well Service	Caddo Pine Island	S	Sklar Gamm	002	125296
Jackson Well Service	Caddo Pine Island	S	Sklar Gamm A	007	126705
Jackson Well Service	Caddo Pine Island	S	Sklar Gamm A	008	126706
Jackson Well Service	Caddo Pine Island	S	Sklar Gamm A	009	126707
Jackson Well Service	Caddo Pine Island	S	Sklar Gamm A	001	130885
Jackson Well Service	Caddo Pine Island	S	Sklar Gamm	004	130886
Jackson Well Service	Caddo Pine Island	S	Spell	011	150839
Jackson Well Service	Caddo Pine Island	S	Bickham	001	159734
Jackson Well Service	Caddo Pine Island	S	Bickham	002	159786
Jackson Well Service	Caddo Pine Island	S	Bickham	003	165586
Jackson Well Service	Caddo Pine Island	S	Crystal Oil & Land Co B SWD	001	970323
Jackson Well Service	Caddo Pine Island	S	Barrett Southerlin	001	990134
Maxum Energy Corporation	Longwood	S	Swanson-Johnson	003	182411
Maxum Energy Corporation	Longwood	S	Puckett	001	049106
Maxum Energy Corporation	Longwood	S	Swanson-Johnson	002	178665
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson	001	91618
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson	006	95957
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson	003	99295
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson	007	100036
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson	004	101771
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson	008	102970
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson	005	105565
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson	009	106068
Maxum Energy Corporation	Greenwood-Waskom	S	Johnson-Swanson SWD	001	194376
Maxum Energy Corporation	Greenwood-Waskom	S	Miles	001	112072
Maxum Energy Corporation	Greenwood-Waskom	S	Miles	002	112073
Maxum Energy Corporation	Greenwood-Waskom	S	Miles	007	112328
Maxum Energy Corporation	Greenwood-Waskom	S	Miles	005	116932
Maxum Energy Corporation	Greenwood-Waskom	S	Miles	004	117174
Maxum Energy Corporation	Greenwood-Waskom	S	Miles	008	124088
Maxum Energy Corporation	Greenwood-Waskom	S	Miles B	001	122211
Maxum Energy Corporation	Greenwood-Waskom	S	Miles B	002	124307
Maxum Energy Corporation	Greenwood-Waskom	S	Miles C	001	122662
Maxum Energy Corporation	Greenwood-Waskom	S	Miles C	002	127213

Maxum Energy Corporation	Greenwood-Waskom	S	Miles D	001	122940
Maxum Energy Corporation	Longwood	S	Brinkman	001	188833
Maxum Energy Corporation	Longwood	S	Brinkman	003	188952
Maxum Energy Corporation	Longwood	S	Brinkman	004	188953
Maxum Energy Corporation	Longwood	S	Brinkman	005	188954
Maxum Energy Corporation	Longwood	S	Brinkman	002	193243
Maxum Energy Corporation	Longwood	S	Johnson G	001	216050
Maxum Energy Corporation	Longwood	S	Johnson G	002	216782
Maxum Energy Corporation	Longwood	S	Johnson G	005	217159
Maxum Energy Corporation	Longwood	S	Sarah Puckett Moneyham	001	144344
Maxum Energy Corporation	Longwood	S	Swanson-Johnson	001	178664
Maxum Energy Corporation	Longwood	S	Swanson-Johnson	004	182412
Maxum Energy Corporation	Longwood	S	Swanson-Johnson	005	185493
Maxum Energy Corporation	Longwood	S	Swanson-Johnson	006	186806
Mayfield Drlg. Corp.	Bellevue	S	Lodwick Lbr Co.	008	037894 (29)
Taylor Milton	Caddo Pine Island	S	Mathieu	006	079818
Oil Lift, Incorporated	Golden Meadow	L	N Cheramie	001	039445
Charles A. O=Niell, Jr.	Golden Meadow	L	LL&E 1 RA SUL; LL&E	001	083562
Petro-Lewis Corp.	Coffee Bay	L	CB SUC; Grandison	006	065104 (30)
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	001	031822
Tillman A. Rousse, Inc.	Golden Meadow	L	Remis Cheramie	001	035941
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	004	032342
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	007	033681
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	008	034242
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	009	035972
Tillman A. Rousse, Inc.	Golden Meadow	L	SL 367	005	024254
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	002	031992
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	003	032072
Tillman A. Rousse, Inc.	Golden Meadow	L	Tamplain & Talbot	001	032132
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	005	032562
Tillman A. Rousse, Inc.	Golden Meadow	L	T Cheramie	006	033508
Tillman A. Rousse, Inc.	Golden Meadow	L	Tamplain & Talbot	002	034419
Tillman A. Rousse, Inc.	Golden Meadow	L	Tamplain & Talbot	003	034946
Tillman A. Rousse, Inc.	Golden Meadow	L	Tamplain & Talbot A	002	051303
Tillman A. Rousse, Inc.	Golden Meadow	L	Tamplain & Talbot A	003	071170
Tillman A. Rousse, Inc.	Golden Meadow	L	Tamplain & Talbot A	001	129725
Smith Oil Company	Caddo Pine Island	S	Washington	001	141932
Thor Max Operating, Inc.	Greenwood-Waskom	S	Johnson-Swanson A	001	221127
Thor Max Operating, Inc.	Longwood	S	Elizabeth Williams Mitchell G	005	221185
Thor Max Operating, Inc.	Greenwood-Waskom	S	Elizabeth Williams G SWD	001	174162
Thor Max Operating, Inc.	Longwood	S	Herold et al	001	183205

Thor Max Operating, Inc.	Greenwood-Waskom	S	Myra Mitchell D	004	108936
Thor Max Operating, Inc.	Caddo Pine Island	S	Spell	001	222824
Thor Max Operating, Inc.	Greenwood-Waskom	S	A F White	001	103641
Thor Max Operating, Inc.	Greenwood-Waskom	S	A F White	002	104266
Thor Max Operating, Inc.	Greenwood-Waskom	S	A F White	003	215195
Thor Max Operating, Inc.	Greenwood-Waskom	S	Elizabeth Williams B	001	106694
Thor Max Operating, Inc.	Greenwood-Waskom	S	Elizabeth Williams B	006	108066
Thor Max Operating, Inc.	Greenwood-Waskom	S	Elizabeth Williams B	002	108155
Thor Max Operating, Inc.	Greenwood-Waskom	S	Elizabeth Williams B	003	109834
Thor Max Operating, Inc.	Greenwood-Waskom	S	Elizabeth Williams B	007	110040
Thor Max Operating, Inc.	Greenwood-Waskom	S	Elizabeth Williams B	004	111525
Thor Max Operating, Inc.	Greenwood-Waskom	S	Elizabeth Williams B	005	118053
Thor Max Operating, Inc.	Greenwood-Waskom	S	Ella Hunter	001	97231
Thor Max Operating, Inc.	Greenwood-Waskom	S	Ella Hunter	003	102816
Thor Max Operating, Inc.	Greenwood-Waskom	S	Ella Hunter	004	105507
Thor Max Operating, Inc.	Greenwood-Waskom	S	Gray-Hickey A	003	56216
Thor Max Operating, Inc.	Greenwood-Waskom	S	Gray-Hickey A	007	57050
Thor Max Operating, Inc.	Greenwood-Waskom	S	Gray-Hickey A	008	59128
Thor Max Operating, Inc.	Greenwood-Waskom	S	Gray-Hickey A	009	59697
Thor Max Operating, Inc.	Greenwood-Waskom	S	Gray-Hickey A	002	97452
Thor Max Operating, Inc.	Greenwood-Waskom	S	Gray-Hickey A	011	107286
Thor Max Operating, Inc.	Greenwood-Waskom	S	Gray-Hickey A	004	174959
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Philip N. Asprodites
Commissioner

0104#045

POTPOURRI

Department of Natural Resources Office of Conservation

Proposed Amendment to Statewide Order No. 29-B
(LAC 43:XIX.43.501 et seq.)

The Commissioner of Conservation is considering the amendment of Statewide Order No. 29-B, LAC 43:XIX.501 et seq. in order to strengthen the operational requirements for all commercial exploration and production (E&P) waste storage, treatment and disposal facilities. The proposed changes are a result of an ongoing study of E&P waste in Louisiana and are based on the reports and recommendations of outside experts. The Office of Conservation is hereby requesting interested parties to provide comments on the following proposed changes.

1. Increase the distance from 500 feet to 1,000 feet of land treatment cells from a residential, commercial or public building.

2. Require the land treatment of production tank bottoms at least 1,800 feet from a residential, commercial or public building.

3. Prohibit the disposal of gas plant wastes at commercial land treatment facilities.

4. Identify acceptable storage, treatment and disposal methods for all types of E&P waste.

5. Require operators of all commercial facilities to provide and maintain detailed waste management and operational plans.

All expert reports and data utilized in this study is available for review at the Office of Conservation, Injection & Mining Division, Second Floor, 625 North Fourth St., Baton Rouge, LA, or on our web page at www.dnr.state.la.us/CONS/Conserv.ssi.

Written comments on these proposed rule modifications should be provided and mailed to the attention of Philip N. Asprodites, Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. Comments must be received no later than 4:30 pm May 20, 2001.

Philip N. Asprodites
Commissioner of Conservation

0104#049

POTPOURRI

Department of Natural Resources Office of the Secretary

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 14 claims in the amount of \$46,312.87 were received for payment during the period March 1, 2001 - March 31, 2001. There were 13 claims paid and 1 claim denied.

Loran Coordinates of reported underwater obstructions are:

28042	46833	Terrebonne
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Latitude/Longitude Coordinates of reported underwater obstructions are:

2900.617	8908.129	Plaquemines
2902.946	8923.559	Plaquemines
2905.556	9010.880	Lafourche
2905.832	8921.985	Plaquemines
2908.275	9005.142	Lafourche
2914.610	8357.000	Plaquemines
2914.902	8964.844	Jefferson
2921.764	8912.763	Plaquemines
2942.616	8937.256	St Bernard
2951.060	9320.724	Cameron
2952.600	8942.371	St Bernard
3004.310	9318.570	Calcasieu

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0104#033

POTPOURRI

Department of Revenue Severance Tax Division

Natural Gas Severance Tax Rate

Pursuant to the authority granted by R.S. 47:633(9)(d)(ii), the Department of Natural Resources has determined the "gas base rate adjustment" for the twelve-month period ending March 31, 2001, to be 2.8403. Accordingly, the Department of Revenue has determined the severance tax rate on natural gas and related products described in R.S.

47:633(9)(a) to be 19.9 cents per thousand cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of sixty degrees Fahrenheit, effective July 1, 2001.

The reduced rates provided for in R.S. 47:633(9)(b) and (c) are not affected by this adjustment and remain the same.

The determination of this "gas base rate adjustment" and corresponding tax rate and their publication in the Louisiana Register shall not be considered rule making within the

intention of the Administrative Procedures Act, R.S. 49:950 et seq.

Questions should be directed to Carl Reilly, Director of the Severance Tax Division at (225) 925-7497.

Cynthia Bridges
Secretary

0104#054

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