

I. EXECUTIVE ORDERS
 MJF 01-26C Executive Department C Expenditure Reduction Order987
 MJF 01-27C Bond Allocation C Louisiana Local Governmental Environmental Facilities and Community
 Development Authority987

II. EMERGENCY RULES
Agriculture and Forestry
 Office of Agriculture and Environmental Sciences C Aerial Pesticide Applications C Malathion Insecticide
 (LAC 7:XXIII.145)989
 Restrictions on Application of Certain Pesticides (LAC 7:XXIII.143)991

Education
 Student Financial Assistance Commission, Office of Student Financial Assistance C Tuition Opportunity
 Program for Students (TOPS) C Definitions and Exceptional Circumstances (LAC 28:IV.301 and 2103) ...991

Governor
 Commission on Law Enforcement and Administration of Criminal Justice C Peace Officers C Standards and
 Training (LAC 22:III.4703)992
 Division of Administration, Board of the Trustees of the State Employees Group Benefits Program C EPO
 Plan of Benefits C Prescription Drug Benefits (LAC 32:V.325 and 701)993
 PPO Plan of Benefits C Prescription Drug Benefits (LAC 32:III.325 and 701)994

Health and Hospitals
 Office of the Secretary, Bureau of Health Services Financing C Disproportionate Share Hospital Payment
 Methodologies Provider Based Rural Health Clinics995
 Durable Medical Equipment C Ostomy Supplies Reimbursement Increase996
 Emergency Ambulance Transportation Services C Reimbursement Increase996
 Inpatient Hospital Services Reimbursement Methodology C Well Baby Care997
 Mental Health Rehabilitation Services C Reimbursement Increase998
 Mentally Retarded/Developmentally Disabled Waiver C Reimbursement Increase998
 Non-Emergency Ambulance Services C Reimbursement Increase999
 Public Hospitals Reimbursement Methodology999
 Public Hospitals Reimbursement Methodology C Upper Payment Limit 1000

Social Services
 Office of Community Services C Percentage of Title IV-E Foster Children in Care over 24 Months
 (LAC 67:V.3510) 1001
 Office of Family Support C Food Stamp Eligibility (LAC 67:III.1949, 1983, and 1987) 1001

Wildlife and Fisheries
 Wildlife and Fisheries Commission C Commercial Red Snapper Closure 1002
 2001-2002 Recreational Nutria Harvest Season 1003
 2001 Spring Inshore Shrimp Season Closure 1003
 2001 Spring Inshore Shrimp Season Closure 1003
 2001 Wild Alligator Harvest Season 1004

III. RULES
Agriculture and Forestry
 Office of Forestry C Timber Harvesting and Receiving Records (LAC 7:XXXIX.1501, 1503, and 1507) 1005

Education
 Board of Elementary and Secondary Education C Bulletin 741 C Louisiana Handbook for School
 Administrators C The Louisiana School and District Accountability System (LAC 28:I.901) 1005
 Bulletin 1566 C Guidelines for Pupil Progression C Regular Placement and LEAP High Stakes Testing
 Policy (LAC 28:XXXIX.503 and 1301) 1006
 Rules Governing Discussion (LAC 28:I.307) 1012

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	Office of Environmental Assessment, Environmental Planning Division	CRCRA XCAccumulation Time (LAC 33:V.1109 and 2231)(HW077*).....	1014
Health and Hospitals			
	Office of the Secretary, Bureau of Health Services Financing	CHome and Community Based Services Waiver Program	CChildren's Choice Crisis Designation.....
			1015
Public Safety and Corrections			
	Board of Private Investigator Examiners	CApprentice Licensing (LAC 46:LVII.512).....	1016
		Continuing Education (LAC 46:LVII.518).....	1016
Revenue			
	Office of the Secretary	CSignature Alternatives; Electronic Filings (LAC 61:I.4905).....	1017
Social Services			
	Office of Family Support	CFood Stamps	CCertification of Eligible Households (LAC 67:III.2005 and 2007).....
		Teen Pregnancy Prevention Program (LAC 67:III.Chapter 54).....	1018
Transportation and Development			
	Professional Engineering and Land Surveying Board	CBoard Revisions (LAC 46:LXI.101-3301).....	1019
Wildlife and Fisheries			
	Wildlife and Fisheries Commission	CGeneral and WMA Hunting (LAC 76:XIX.111).....	1049
		Resident Game Hunting Season	C2001-2002 (LAC 76:XIX.101 and 103).....
		Waterfowl Hunting Zones (LAC 76:V.319).....	1062
IV. NOTICES OF INTENT			
Agriculture and Forestry			
	Horticulture Commission	CRequired Standards of Practice (LAC 7:XXIX.117).....	1063
Education			
	Board of Elementary and Secondary Education	CBulletin 741	CLouisiana Handbook for School Administrators
		CCurriculum Standards (LAC 28:I.901).....	1063
	Bulletin 741	CLouisiana Handbook for School Administrators	CPolicy for Louisiana's Public Education Accountability System (LAC 28:I.901).....
			1065
	Bulletin 741	CLouisiana Handbook for School Administrators	CWritten Policies Required of Local School Systems (LAC 28:I.901).....
			1072
	Student Financial Assistance Commission, Office of Student Financial Assistance	CTuition Opportunity Program for Students (TOPS)	CDefinitions and Exceptional Circumstances (LAC 28:IV.301 and 2103).....
			1073
Environmental Quality			
	Office of Environmental Assessment, Environmental Planning Division	CEmission Control of Organic Compounds	CCalcasieu Parish Area (LAC 33:III.Chapter 21)(AQ219).....
			1073
		Emission Reduction Credits Banking (LAC 33:III.Chapter 6)(AQ211).....	1079
Health and Hospitals			
	Board of Dentistry	CRestricted Licenses: Adverse Sanctions; Temporary Licenses; Licensure by Credentials; Dental Assistant Duties; Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations (LAC 46:XXXIII.105, 116, 120, 306, 502, 503, 706, 710, 1305, 1607, and 1619).....	1084
	Board of Examiners in Dietetics and Nutrition	CIssuance and Renewal of Licensure (LAC 46:LXX.111).....	1087
	Board of Medical Examiners	CSubpoenas for Hearing (LAC 46:XLV.9917).....	1088
	Office of Public Health	CSanitary Code	CGeneral Provisions (LAC 51:I.Chapter 1).....
			1088
	Office of the Secretary, Bureau of Health Services Financing	CMedicaid Estate Recovery Program.....	1091
Insurance			
	Office of the Commissioner	CRule No. 9	CPre-Licensing Requirements; Education Advisory Council (LAC 37:XI.Chapter 5).....
			1094
Revenue			
	Policy Services Division	CApplication of the Louisiana Individual Income Tax to Native Americans (LAC 61:I.1303).....	1096
		Definition of Sales Price (LAC 61:I.4301).....	1097
Treasury			
	Bond Commission	CFee Schedule and Fee Rebate (LAC 71:III.301, 1301, and 1901).....	1100
Wildlife and Fisheries			
	Wildlife and Fisheries Commission	CWild Quadrupeds (LAC 76V.119).....	1101
V. LEGISLATION			
State Legislation			
	House Concurrent Resolution Number 135 of the 2001 Regular Session by Representative Bowler	CInsurance	CSeverability Provisions.....
			1102
VI. ADMINISTRATIVE CODE UPDATE			
	Cumulative	CJanuary through June 2001.....	1103
VII. POTPOURRI			
Health and Hospitals			
	Board of Embalmers and Funeral Director Directors	CEmbalmer/Funeral Director Examiners.....	1105

Board of Veterinary MedicineCFall and Winter Exam Dates	1105
Office of the Secretary, Bureau of Health Services FinancingCPrivate Intermediate Care Facilities for the Mentally RetardedCNew Reimbursement Rates	1105
Private Nursing FacilitiesCNew Reimbursement Rates	1105
Insurance	
Office of the CommissionerCViatical Settlements and License Requirements	1106
Natural Resources	
Office of ConservationCORphaned Oilfield Sites	1106
Office of the SecretaryCLoran Coordinates	1107
VII. INDEX	1108

Executive Orders

EXECUTIVE ORDER MJF 01-26

Executive Department C Expenditure Reduction Order

WHEREAS, the Casino Gaming Proceeds Fund (hereafter "Fund") is a dedicated fund established by LSA-R.S. 27:270(B)(1);

WHEREAS, Act No. 21 of the 2000 Regular Session of the Louisiana Legislature appropriates sums from the Fund for capital outlay;

WHEREAS, the governor has been notified by the commissioner of administration that the total appropriations from the Fund will exceed the official revenue forecast for the Fund due to the enactment of Act 1 of the 2001 1st Extraordinary Session of the Louisiana Legislature, and an expenditure reduction is necessary to prevent the occurrence of a cash deficit;

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, Act No. 21 of the 2000 Regular Session of the Louisiana Legislature, and other provisions of law, the governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of state government upon notification that a projected deficit exists in a dedicated fund; and

WHEREAS, the interests of the citizens of the state of Louisiana are best served by the implementation of prudent money management practices in the form of an expenditure reduction of certain appropriations derived directly or indirectly from the Fund;

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 following departments, agencies, and/or budget units of the executive branch of the state of Louisiana, as described in and/or funded by appropriations derived directly or indirectly from the Casino Gaming Proceeds Fund, through Act No. 21 of the 2000 Regular Session of the Louisiana Legislature, shall reduce their expenditures, in the amounts shown below:

Executive Department

- | | |
|---|-----------------|
| 1) Budget Unit 01-107 | |
| Division of Administration | |
| a) Capitol Complex Acquisitions, Demolition, Sitework, Construction and Renovation of Facilities | \$ 3,818,156.59 |
| b) Louisiana Technology Innovation Fund | \$ 3,000,000.00 |
| 2) Budget Unit 08-419 | |
| Office of State Police | |
| Automated Fingerprint Identification System Acquisition | \$ 1,185,705.00 |
| 3) Budget Unit 19-600 | |
| Louisiana State University Board of Supervisors | |
| Major Repairs and Reroofing, and Life Safety Code Citation Corrections to Campus Buildings, Planning and Construction | \$ 889,594.02 |

- | | |
|---|------------------------|
| 4) Budget Unit 19-615 | |
| Southern University Board of Supervisors | |
| Major Repairs and Reroofing, and Life Safety Code Citation Corrections to Campus Buildings, Planning and Construction | \$ 212,960.00 |
| 5) Budget Unit 19-620 | |
| University of Louisiana Board of Trustees | |
| Major Repairs and Reroofing and Life Safety Code Citation Corrections to Campus Buildings, Planning and Construction | \$ 739,652.00 |
| 6) Budget Unit 19-671 | |
| Board of Regents for Higher Education Library, Instructional and Scientific Equipment Acquisition | \$ 3,999,220.30 |
| 7) Budget Unit 19-681 | |
| Subgrantee Assistance | |
| K-12 Classroom-based Technology | \$ 2,500,000.00 |
| 8) Budget Unit 19-649 | |
| Community and Technical Colleges Board of Supervisors | |
| Campus Master Planning | \$ 254,400.00 |
| Total Expenditure Reduction | \$16,599,687.91 |

SECTION 2: This Order is effective upon signature and shall continue in effect through June 30, 2001, unless 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 20th day of June, 2001.

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

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

EXECUTIVE ORDER MJF 01-27

Bond Allocation C Louisiana Local Government Environmental Facilities and Community Development Authority

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

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

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

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

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2001 Ceiling to be used to finance the acquisition and rehabilitation of a twenty-six (26) unit multifamily apartment complex located at 618 Independence 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
\$850,000	Louisiana Local Government Environmental Facilities and Community Development Authority	Independence Street Apartments

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 September 24, 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 26th day of June, 2001.

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

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

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

Aerial Pesticide Applications Malathion Insecticide (LAC 7:XXIII.145)

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

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

This Emergency Rule becomes effective upon the signature of the Commissioner and shall remain in effect for 30 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

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

A. - A.5.b.xxxvi. ...

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

i. The Commissioner hereby declares that prior to making any aerial application of ULV malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicators responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner

that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required.

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

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

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

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

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

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

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

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

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Differential correction may be provided by fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication three feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of three hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one-second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to sunrise on June 29, 2001 and shall not be made after sunset on July 28, 2001.

xxxvi. Applications of ULV malathion shall be restricted to seven day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:1964 (September 2000), LR 27:

Signed and attested to this third day of July 2000.

Bob Odom
Commissioner

0107#006

DECLARATION OF EMERGENCY

Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

Restrictions on Application of Certain Pesticides (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:95(B) and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following Rule for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

The applications of 2, 4-D in certain parishes, in accordance with the current regulations and labels have not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of Central Louisiana and to Louisiana Agricultural producers.

The Department has, therefore, determined that these emergency rules implementing further restrictions on the application of 2, 4-D and products containing 2, 4-D during the current crop year, are necessary in order to alleviate these perils. Information will be gathered to determine the effectiveness of these restrictions on preventing 2, 4-D drift onto non-target areas.

These rules become effective upon signature and will remain in effect 120 days. Signed and attested to this 22nd day of June 2001.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - P.2 ...

3. 2, 4-D or Products Containing 2, 4-D Application Restrictions

a. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 1st and September 15th in the following parishes: Allen (east of U.S. Highway 165 and south of U.S. Highway 190), Evangeline (south of U.S. Highway 190), Pointe Coupee (south of U.S. Highway 190), and St. Landry (south of U.S. Highway 190).

b. 2, 4-D, or products containing 2, 4-D, shall not be applied by commercial or private applicators between June 22, 2001 and September 15, 2001 in the following parishes: Allen (east of U.S. Highway 165 and north of U.S. Highway 190), Avoyelles, Evangeline (north of U.S. Highway 190), Rapides, and St. Landry (north of U.S. Highway 190).

P.4. - P.6.a.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:

Bob Odom
Commissioner

0107#007

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)CDefinitions and Exceptional Circumstances (LAC 28:IV.301 and 2103)

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

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

This declaration of emergency is effective June 7, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28
EDUCATION

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

Chapter 3. Definitions

§301. Definitions

* * *

*First-Time Freshman*C a student who is awarded TOPS Opportunity, Performance, or Honors and enrolls for the first-time as a full-time freshman in an academic program in a postsecondary school subsequent to high school graduation, and continues to be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in an academic program in a postsecondary college or university in a summer session will be considered a *first-time freshman* for the immediately succeeding fall term. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in a non-academic program in a postsecondary school in a summer term will be considered a *first-time freshman* at the time of such enrollment. The fact that a student enrolls in a postsecondary school prior to graduation from high school and/or enrolls less than full time in a postsecondary school prior to the required date for full time enrollment shall not preclude the student from being a *first-time freshman*.

* * *

*Full-Time Student*C

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

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

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

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

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

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

* * *

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 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:

Chapter 21. Miscellaneous Provisions and Exceptions

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

A. - E.11.a.i.(a). - (i). ...

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

(k). a suspension or expulsion for misconduct;

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

E.11.a.ii - E.11.c. ...

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

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1919 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:36 (January 2001), LR 27:

Mark S. Riley

Assistant Executive Director

0107#010

DECLARATION OF EMERGENCY

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Peace OfficersCStandards and Training
(LAC 22:III.4703)

The following amendment is published in accordance with the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, and R.S.40:2401 et seq., the Peace Officer Standards and Training Act, which allows the Council on Peace Officer Standards and Training (POST) to promulgate rules necessary to carry out its business or the provision of Chapter 47. This rule will replace the current rule and includes the following change: Correctional peace officers must meet certain firearms requirements for annual requalification.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part III. Commission on Law Enforcement and
Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4703. Basic Certification

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. ...
2. Level 2 Certification for Basic Correctional Peace Officer
 - a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is required (effective 3/26/01).

- b. Correctional peace officers with Level 2 certification must meet the POST firearms requirements for annual requalification as outlined in §4721.B and §4721.C.

A.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 27:

Michael A. Ranatza
Executive Director

0107#015

DECLARATION OF EMERGENCY

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

EPO Plan of Benefits CPrescription Drug Benefits
(LAC 32:V.325 and 701)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees, hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

The Board finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to prescription drug benefits. Failure to adopt this rule on an emergency basis may result in disruption of prescription

drug therapy for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, revising and amending the EPO Plan of Benefits relative to prescription drug benefits, is effective July 1, 2001, and shall remain in effect for a maximum of 120 days, or until the final rule is promulgated, which ever occurs first.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§325. Prescription Drug Benefits

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

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

- 1.-10. ...
11. drugs for Treatment of impotence, except following surgical removal of the prostate gland; and
12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program health benefits identification card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1000 of co-insurance/co-payments for eligible prescription drug expenses, the Plan Member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

Note: For the period July 1, 2001 through December 31, 2001, the out-of-pocket threshold will be \$500 per person. On January 1, the threshold will be re-set to \$1000 for calendar year 2002 and each subsequent year.

2. ...
3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

- a. up to a 34-day supply of drugs may be dispensed at one time; and
- b. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.
- c. *brand drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.
- d. *generic drug* a chemically equivalent copy of a brand drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), LR 27:718 (May 2001), LR 27:

Chapter 7. Schedule of Benefits – EPO

§701. Comprehensive Medical Benefits

- A. ...
- 1. - 3. ...
- 4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50 percent of drug costs at point of purchase
Maximum co-payment	\$40 per prescription dispensed
Out-of-pocket threshold	\$1000 per person, per calendar year
Co-pay after threshold is reached:	
Brand	\$15
Generic	No co-pay
Plan pays balance of Eligible Expense	
<i>Note: Out-of-pocket threshold - \$500 per person, for the period July 1 – December 31, 2001</i>	
Non-network pharmacy	Member pays full drug costs at point of purchase
In-state	Reimbursement limited to 50% of amount payable by Plan at Network Pharmacy
Out-of-state	Reimbursement limited to 80% of amount payable by Plan at Network Pharmacy

B. – G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:719 (May 2001), LR 27:

A. Kip Wall
Chief Executive Officer

0107#013

DECLARATION OF EMERGENCY

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

PPO Plan of Benefits Prescription Drug Benefits
(LAC 32:III.325 and 701)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the

responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees, hereby invokes the Emergency Rule provisions of R. S. 49:953(B).

The Board finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to prescription drug benefits. Failure to adopt this rule on an emergency basis may result in disruption of prescription drug therapy for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, revising and amending the PPO Plan of Benefits relative to prescription drug benefits, is effective July 1, 2001, and shall remain in effect for a maximum of 120 days, or until the final rule is promulgated, which ever occurs first.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§323. Prescription Drug Benefits

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

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

- 1.-10. ...
- 11. drugs for Treatment of impotence, except following surgical removal of the prostate gland; and
- 12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program health benefits identification card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1000 of co-insurance/co-payments for eligible prescription drug expenses, the plan member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

Note: For the period July 1, 2001 through December 31, 2001, the out-of-pocket threshold will be \$500 per person. On January 1, the threshold will be re-set to \$1000 for calendar year 2002 and each subsequent year.

- 2. ...
- 3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been

paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

- a. up to a 34-day supply of drugs may be dispensed at one time; and
- b. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.
- c. *brand drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.
- d. *generic drug* a chemically equivalent copy of a brand drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), LR 27:720 (May 2001), LR 27:

Chapter 7. Schedule of Benefits–PPO

§701 Comprehensive Medical Benefits

- A. ...
- 1. - 3. ...
- 4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50 percent of drug costs at point of purchase
Maximum co-payment	\$40 per prescription dispensed
Out-of-pocket threshold	\$1000 per person, per calendar year
Co-pay after threshold is reached:	
Brand	\$15
Generic	No co-pay
Plan pays balance of Eligible Expense	
<i>Note: Out-of-pocket threshold - \$500 per person, for the period July 1 - December 31, 2001</i>	
Non-network pharmacy	Member pays full drug costs at point of purchase
In-state	Reimbursement limited to 50 percent of amount payable by Plan at Network Pharmacy
Out-of-state	Reimbursement limited to 80 percent of amount payable by Plan at Network Pharmacy

B. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:722 (May 2001), LR 27:

A. Kip Wall
Chief Executive Officer

0107#012

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 hospitals' 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 Emergency Rule is being adopted to continue the provisions contained in the April 10, 2001 rule.

Emergency rule

Effective August 9, 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

0107#055

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 Manufacturers 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 Emergency Rule is being adopted to continue the provisions contained in the April 6, 2001 rule.

Emergency Rule

Effective for dates of service August 5, 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 Manufacturers 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

0107#056

DECLARATION OF EMERGENCY

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

Emergency Ambulance Transportation
Services Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title

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

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the Bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in February 2001 to restore the seven percent reduction previously made to the reimbursement rates for emergency ambulance transportation services and increase the base rate for these services by two percent (*Louisiana Register*, volume 27, number 2).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the Bureau now proposes to increase the reimbursement for certain designated procedure codes for emergency ambulance transportation services by 1.4 percent. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for emergency ambulance transportation services by approximately \$596,111 for the state fiscal year 2001-2002.

Emergency Rule

Effective for dates of service July 1, 2001 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedure codes for emergency ambulance transportation services by 1.4 percent:

A0368	Emergency transport, no specialized ALS services
A0380	Emergency loaded miles, BLS
A0382	Routine disposable supplies, BLS
A0390	Non-Emergency loaded miles, ALS
A0394	Disposable supplies, ALS
A0398	Oxygen & oxygen supplies, ALS or BLS
A0422	Ambulance O2 life sustaining
A0427	ALS-Emergency
A0429	BLS-Emergency transport
A0433	ALS2
A0434	Specialty care transport

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

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

0107#051

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services Reimbursement MethodologyCWell 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 emergency rule is being adopted to continue the provisions contained in the April 10, 2001 rule.

Emergency Rule

Effective for dates of service on or after August 9, 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, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0107#057

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Services
Reimbursement Increase

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for mental health rehabilitation services under the Medicaid Program. Reimbursement for these services is a prospective, negotiated and non-capitated rate based on the delivery of services as specified in the service agreement and the service package required for the adult and child/youth populations. As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in July of 2000 to restore the seven percent reduction made to the reimbursement rates in the Mental Health Rehabilitation Program for high need services for adults and children as well as moderate need services for children (*Louisiana Register*, volume 26, number 7).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the Bureau now proposes to increase the reimbursement rates for designated procedure codes in the Mental Health Rehabilitation Program for high need, medium need and low need services for adults and children. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for mental health rehabilitation services by approximately \$2,142,720 for the state fiscal year 2001-2002.

Emergency Rule

Effective for dates of service July 1, 2001 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates in the Mental Health Rehabilitation

Program for designated procedure codes for high need, medium need and low need services for adults and children to the following rates.

Procedure code	Procedure Name	New Rate
X0132	Adult - Low Need	\$350.00
X0133	Adult - Medium Need	\$750.00
X0135	Child - Low Need	\$400.00
X0136	Child - Medium Need	\$840.00
X0137	Child - High Need	\$1415.00

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

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

0107#052

DECLARATION OF EMERGENCY

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

Mentally Retarded/Developmentally Disabled
Waiver Reimbursement Increase

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 Community Supports and Services provides reimbursement for personal care attendant (PCA), supervised independent living (SIL) and respite services provided to recipients in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program. The Bureau adopted emergency rules in July 1995 to reduce the reimbursement rates paid for PCA, SIL and respite services provided to MR/DD waiver recipients (*Louisiana Register*, volume 21, number 7). The provisions contained in the July 20, 1995 emergency rules were subsequently repealed by an emergency rule adopted in October 1995 (*Louisiana Register*, volume 21, number 10).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the Bureau now proposes to increase the reimbursement rates for certain designated procedure codes for personal care attendant, respite and supervised independent living services. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of

providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for MR/DD waiver services by approximately \$2,223,345 for the state fiscal year 2001-2002.

Emergency Rule

Effective July 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services increases the reimbursement rates in the Mentally Retarded/Developmentally Disabled Waiver for certain designated procedure codes for personal care attendant, respite and supervised independent living services as follows.

Z0002	PCA	\$10.30
Z0011	PCA - High Need	\$11.64
Z0003	Respite	\$10.30
Z0013	Respite - High Need	\$11.64
Z0004	Respite - Center	\$6.66
Z0014	Respite - Center - High Need	\$11.64
Z0053	SIL Day Companion	\$7.38
Z0055	SIL Night Companion	\$6.35

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is the person 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

0107#053

DECLARATION OF EMERGENCY

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

Non-Emergency Ambulance Services
Reimbursement Increase

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the Bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in February 2001 to restore the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999 and increase the reimbursement fees for certain

designated procedure codes (*Louisiana Register*, volume 27, number 2).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the Bureau now proposes to increase reimbursement for certain designated procedure codes for non-emergency ambulance transportation services. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for non-emergency ambulance transportation services by approximately \$1,349,031 for the state fiscal year 2001-2002.

Emergency Rule

Effective for dates of service July 1, 2001 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services to the following rates:

A0366	Base rate, Specialized ALS services, 1 st trip	\$152.75
A0426	ALS non-emergency transport	\$152.75
A0428	BLS non-emergency transport	\$152.75
Z5100	Transfer, loaded miles, BLS, 1 st trip	\$152.75
Z5101	Transfer, loaded miles, ALS, 1 st trip	\$152.75
Z9497	Base rate, ALS or BLS, 2 nd trip	\$152.75

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

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

0107#054

DECLARATION OF EMERGENCY

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

Public Hospitals CReimbursement 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 directed 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 recognize the hospitals unreimbursed Medicaid costs incurred in providing care to Medicaid recipients. This emergency rule is being adopted to continue provisions contained in the December 21, 2000 rule.

Emergency Rule

Effective August 20, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing may recognize unreimbursed Medicaid costs incurred by non-state public hospitals, which are not recognized by the Department as a small rural hospital, in providing care to Medicaid recipients. Recognition shall be contingent upon the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143).

These costs shall be calculated from each hospital's latest audited Medicaid cost report. The 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 amount if additional costs are identified subsequent to the completion of the audit process.

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

0107#058

DECLARATION OF EMERGENCY

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

Public Hospitals Reimbursement Methodology Upper Payment Limit

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

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

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

The bureau now proposes to utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). 42 CFR §447.272(c) and §447.321(c) states as follows: "Exceptions C (1) Non-State government-operated hospitals. The aggregate Medicaid payments may not exceed 150 percent (150%) of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles in subchapter B of this chapter." This Emergency Rule is being adopted to continue the provisions contained in the April 1, 2001 rule.

Emergency Rule

Effective July 31, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will utilize the revised upper payment limit for non-state government-owned or operated hospitals as set

forth in the 42 CFR §447.272(c) and §447.321(c). The hospital payment differential for any year shall be the difference between 150 percent (150%) of the upper limit of aggregate payments to non-state government-owned or operated hospitals, as defined in the 42 CFR §447.272(c) and §447.321(c), and the aggregate Medicaid per diem reimbursement paid to these hospitals for the year.

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

David W. Hood
Secretary

0107#059

DECLARATION OF EMERGENCY

Department of Social Services Office of Community Services

Percentage of Title IV-E Foster
Children in Care over 24 Months
(LAC 67:V.3510)

The Department of Social Services, Office of Community Services, adopts the following Emergency Rule in the Foster Care Program as required by 42 USC Sec. 671(A)(14) of the Social Security Act. This emergency rule shall be in effect for 120 days effective June 26, 2001.

The Department of Social Services, Office of Community Services, is required by 42 USC Sec. 671(A)(14) of the Social Security Act to incorporate into State administrative regulations a goal as to the maximum absolute or percentage of children in foster care for over 24 continuous months. Without this immediate and emergency rule, the agency plan for Title IV-E funding would be out of compliance with Federal requirements. This would potentially cause the state to be at risk of immediate sanctions that could result in penalties such as loss of Title IV-E Program funding. The Department has selected a percentage of all children in foster care receiving assistance under a State Title IV-E program.

Title 67

SOCIAL SERVICES

PART V. Office of Community Services

Subpart 5. Foster Care

Chapter 35. Payments, Reimbursables and Expenditures

§3510. Percentage of Title IV-E Children in Foster Care over 24 Months

A. For the percentage of all children in foster care receiving assistance under the State Title IV-E program who at any given time during the fiscal year will have been in foster care over 24 months, the Department will limit that percentage to 55 percent of the total foster care population.

AUTHORITY NOTE: Promulgated in accordance with 42 USC Sec. 671 (A) (14) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR (July, 2001).

J. Renea Austin-Duffin
Secretary

0107#009

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamp Eligibility
(LAC 67:III.1949, 1983, and 1987)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt changes to LAC 67:III, Subpart 3, effective July 1, 2001. This rule shall remain in effect for a period of 120 days.

A final rule published in the June 20, 2001 issue of the Louisiana Register amended Subsections A of §§1949, 1983, and 1987. By failing to show that there were no revisions to what followed each subsection, the regulations contained in the subsequent paragraphs and subsections have been effectively removed from LAC 67:III beginning July 1. (Rules promulgated by the Office of Family Support are effective the first of the month following the publication of the final rule, unless otherwise stated within the rule.) Removal, or omission, of these regulations could result in the imposition of sanctions or penalties by the USDA, Food and Nutrition Service, the governing authority of the Food Stamp Program in Louisiana. Therefore, an emergency rule is necessary to repromulgate these regulations.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1949. Exclusions from Resources

A.1. - 4. ...

B. All of the resources of recipients of FITAP, SSI, and aid to the aged, blind, or disabled under Titles I, II, X, XIV, or XVI of the Social Security Act are excluded.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987), amended LR 13:249 (August 1987), LR 17:953 (October 1991), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 27:867 (June 2001), LR 27:

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

A.1. - 2. ...

3. The maximum dependent care deduction is \$200 per month for each child under two years of age and \$175 for each other dependent.

a. A child care expense that is paid for or reimbursed by the FIND Work Program or the Child Care Assistance Program is not deductible except for that portion of the cost which exceeds the payment or reimbursement.

B. The resource limit for a household is \$2,000, and the resource limit for a household which includes at least one elderly member is \$3,000.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:

Subchapter J. Determining Household Eligibility and Benefit Levels

§1987. Categorical Eligibility for Certain Recipients

A.1. - 10. ...

B. Application Processing

1. Households in which all members are applying for public assistance shall continue to be processed according to joint processing procedures. Until a determination is made on the public assistance application, the household's food stamp eligibility and benefit level shall be based on food stamp eligibility criteria. However, the local office shall postpone denying a potentially categorically-eligible household until the 30th day in case the household is determined eligible to receive public assistance benefits.

2. The household shall be informed on the notice of denial that it is required to notify the local office if its FITAP or SSI benefits are approved.

3. If the household is later determined eligible to receive public assistance benefits after the 30th day and is otherwise categorically eligible, benefits shall be provided using the original application along with other pertinent information occurring subsequent to the application.

4. The local office shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Any changes shall be initialed and the updated application resigned by the authorized representative or authorized household member. If eligibility for public assistance is determined within the 30-day food stamp processing time, benefits shall be provided back to the date of application. If eligibility for public assistance is determined after the food stamp application is denied, benefits for the initial month shall be prorated from the effective date of the public assistance certification or the date of the food stamp application, whichever is later.

C. Certified households that become categorically eligible due to receipt of SSI benefits shall be eligible for the medical and uncapped shelter deductions from the beginning of the period for which the SSI benefits are authorized or the

date of the food stamp application, whichever is later. These additional benefits shall be provided through restoration.

D. For food stamp purposes, Refugee Cash Assistance (RCA) benefits are not considered public assistance and, therefore, an RCA household is not categorically eligible.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:

J. Renea Austin-Duffin
Secretary

0107#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Red Snapper Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its resolution of January 4, 2001 to close the 2001 spring commercial red snapper season in Louisiana state waters when he is informed that the designated portion of the commercial red snapper quota for the Gulf of Mexico has been filled, or projected to be filled, the Secretary hereby declares:

Effective 12:00 noon, July 6, 2001, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12:00 noon, October 1, 2001. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5.

The secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in

federal waters of the Gulf of Mexico will close at 12:00 noon, July 6, 2001. Closing the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0107#014

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2001-2002 Recreational Nutria Harvest Season

In accordance with the provisions of Act 226 of the 2001 Regular Session of the Louisiana Legislature which authorizes the Wildlife and Fisheries Commission to adopt regulations for a recreational harvest of nutria and in accordance with emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency provisions to set seasons, the Wildlife and Fisheries Commission does hereby set the 2001-2002 recreational nutria harvest season statewide from September 1, 2001, one-half hour before sunrise through February 28, 2002, one-half hour after sunset, with no daily bag limit, by any legal method for small game during legal shooting hours and no pelting or sale of meat, except by persons possessing a valid trapping license during the trapping season only.

Dr. H. Jerry Stone
Chairman

0107#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2001 Spring Inshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2001 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2001 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2001 spring inshore shrimp season will close in inshore waters west of the western shore of Bayou Lafourche, on Saturday, June 23, at 6 a.m. This closure includes that part of Zone 2 from the western shore of Bayou Lafourche to the western shore of Vermilion Bay and Southwest Pass at Marsh Island.

That portion of Zone 2 east of the western shore of Bayou Lafourche, and all of Zones 1 and 3 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

The number of small white shrimp in these areas has increased substantially in the last week. The region is being closed to protect these immigrating shrimp.

James H. Jenkins, Jr.
Secretary

0107#017

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2001 Spring Inshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2001 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2001 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2001 spring inshore shrimp season will close in inshore waters in the remaining portion of Zone 2 and all of Zone 3, on Sunday, July 1, at 6 a.m. This closure includes that part of Zone 2 from the eastern shore of Bayou Lafourche to the eastern shore of South Pass of the Mississippi River, and all of Zone 3. Zone 3 is that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island, westward to the Louisiana-Texas state line. With this closure, all inshore waters from the eastern shore of South Pass of the Mississippi River westward to the Louisiana-Texas state line are closed to shrimping.

The number of small white shrimp in these areas has increased substantially in the last week and these regions are being closed to protect these immigrating shrimp.

Zone 1, which extends from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River and all State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56: 495, shall remain open until further notice.

James H. Jenkins Jr.
Secretary

0107#011

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2001 Wild Alligator Harvest Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set seasons, the Wildlife and Fisheries Commission does hereby set the 2001 wild alligator harvest season.

The 2001 wild alligator harvest season shall be from official sunrise August 29, 2001 through official sunset September 30, 2001. Alligators taken from the wild may be

removed from hook and line and taken with other legal capture devices only during daylight hours between official sunrise and official sunset.

Emergency procedures are necessary to allow Department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas.

The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to delay, extend, close or reopen this season based on technical data or if enforcement problems develop.

Dr. H. Jerry Stone
Chairman

0107#018

Rules

RULE

Department of Agriculture and Forestry Office of Forestry

Timber Harvesting and Receiving Records
(LAC 7:XXXIX.1501, 1503, and 1507)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, has amended rules and regulations regarding procedures and information relating to the harvesting and transportation of forest products.

This regulation was established as a Rule in the January 20, 2001 issue of the *Louisiana Register*. However, due to some editing errors that were not corrected previously, this Rule is being resubmitted to correct those errors.

These Rules comply with and are enabled by R.S. 3:4303.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 15. Timber Harvesting and Receiving Records

§1501. Loaders Log: Required Information, Distribution, and Maintenance of Records

A. A loaders log must be kept on all timber harvesting sites. On any per unit sale, upon completion of the harvest, the purchaser must provide the timber owner a copy of the loaders log. Loaders log must be maintained for a period not less than four years

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 26:32 (January 2001), amended LR 27:1005 (July 2001).

§1503. Scale/Load Tickets: Required Information, Distribution, and Maintenance of Records

A. Scale tickets must be maintained for a period of not less than four years. Information required by the scale ticket regulations may be kept on a load ticket provided that the scale ticket can be cross-referenced to the load ticket. When both are used the load ticket and scale ticket must be maintained for a period of not less than four years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 26:32 (January 2001), amended LR 27:1005 (July 2001).

§1507. Penalty for Violations

A. ...

B. The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the commission, the commissioner shall issue a written opinion based on the record of the hearing.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 26:32 (January 2001), amended LR 27:1005 (July 2001).

Bob Odom
Commissioner

0107#033

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C The Louisiana School and
District Accountability System
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's accountability system is an evolving system with different components. The changes more clearly explain and refine existing policy as follows: 1) clarification in the assignment and calculation of School Performance Scores; and 2) change in the growth formula for Limited English Proficiency (LEP) students.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:1005 (July 2001).

The Louisiana School and District Accountability System C Indicators for School Performance Scores

2.006.01 A school's School Performance Score shall be determined using a weighted composite index derived from three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), student attendance for grades K-12, dropout rates for grades 7-12.

Each school shall receive one School Performance Score under one sitecode regardless of its grade structure.

- K-9 schools (excluding grades 10 and 11) shall follow K-8 Accountability Policy
- Schools with grades 10 and/or 11 shall follow 9-12 SPS calculation policy

Growth Targets

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

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

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

$$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * (100 - \text{SPS})/(N + 5)] + [\text{PropLEP} * (100 - \text{SPS})/(N + 5)], \text{ or } 5 \text{ points, whichever is greater}$$
 where
 PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, speech or language impaired, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.
 PropRE = $1 - \text{PropSE}$. PropRE is the proportion of students not in special education.
 SPS = School Performance Score
 N = Number of remaining accountability cycles in the 10-Year Goal period
 During the second ten years, the formula is the following:

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

Growth Targets for New or Reconfigured Schools

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

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

Growth Targets for Reconstituted Schools

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

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

Weegie Peabody
 Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression
 Regular Placement and LEAP High Stakes Testing Policy
 (LAC 28:XXXIX.503 and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education amended Bulletin 1566, Guidelines for Pupil Progression, referenced in LAC 28:I.907.A. The Guidelines for Pupil Progression incorporate the High Stakes Testing Policy that was approved by the Board of Elementary and Secondary Education in January 1999 and revised in January 2001 as well as other policies related to the promotion and retention of students. The revisions changed current policy by extending the waiver for students with disabilities under IDEA for one additional year, adding an exemption for Limited English Proficient (LEP) students, adding a section on state-granted waivers, adding a section regarding extenuating circumstances, revising wording on the policy for students with disabilities to allow the School Building Level Committee (SBLC) to make promotion decisions for the 2000-2001 school year, revising the fourth grade retention limit policy, adding an eighth grade retention limit, and the creation of a Pre-GED/Skills Program (Option 3).

Title 28

EDUCATION

Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression

Chapter 5. Place Policies; State Requirements

§503. Regular Placement¹

A. - A.1b.ii.(a). ...

(ii). Retention Limit (Fourth Grade). The decision to retain a student in the fourth grade more than once as a result of failure to score at or above the Approaching Basis achievement level in English Language Arts and/or Mathematics on the LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan. These students may be either retained again in the fourth grade or promoted to the fifth grade. Students retained in the fourth grade shall retake all four components of the LEAP 21. For promotional purposes, a student must score at or above the Approaching Basic achievement level on the

English language arts and mathematics components of the LEAP 21 only one time.

(iii). Retention Limit (Eighth Grade). The decision to retain an eighth grade student more than once as a result of his/her failure to score at or above the Approaching Basic achievement level in English Language Arts and/or Mathematics on LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan which shall include the following: Beginning with the 2001-2002 school year, an eighth grade student who has repeated the entire grade (Option 1) may be either retained again in the eighth grade; promoted to the ninth grade provided that the student has passed either the English Language Arts or Mathematics component of LEAP 21, has attended at least one LEAP 21 summer remediation program and taken the summer retest, and will enroll in a remedial high school course (English or Mathematics) in which an Unsatisfactory achievement level was attained; or placed in a Pre-GED/Skills Program (Option 3). An eighth grade student attending class on a high school campus and earning some Carnegie credit(s) (Option 2) may be either promoted or retained in accordance with the local Pupil Progression Plan, or placed in a Pre-GED/Skills Program (Option 3). Pre-GED/Skills Program (Option 3) shall be available to students who meet criteria as outlined in *Bulletin 741C Louisiana Handbook for School Administrators*, standard 1.151.05.

(iv). Waiver for students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA). For the 2000-2001 school year only if a student with disabilities (excluding students with only a Speech or Language Impairment) participates in on-level testing, the SBLC may consider a waiver only if the student has participated in the summer remediation program and retest offered by the LEA. If a student with disabilities (excluding students with only a Speech or Language Impairment) participates in out-of-level testing, promotion decisions shall be determined by the SBLC. If a student with disabilities participates in an alternative assessment, promotion decisions shall be determined by the SBLC for the 2001 school year and beyond. Students with disabilities will be promoted in grades four and eight in accordance with SBESE adopted policies.

(v). Exemption for Limited English Proficient (LEP) Student. LEP Students shall begin participation in statewide assessment upon completion of one academic year in an English-speaking school. However, once a LEP student participates in the statewide assessment, the SBLC shall be granted the authority to waive the state grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the Eight grade level. Preliterate LEP students and LEP student who have had no formal schooling or who have has an extended interruption in schooling may request a state-granted waiver for approval from the State Department of Education. Exemption from participation in statewide assessment will be decided on a case by case basis. Once a LEP student participates in statewide assessment, the SBLC shall be granted the authority to waive the state grade promotion policy for a LEP student. A LEP student who was granted waiver at the

fourth grade level is ineligible for a waiver at the Eight grade level. (Refer to Appendix B.)

(vi). Appeals Process. A school system, through its superintendent, may grant an appeal on behalf of individual fourth and eighth grade students who have not scored above the "Unsatisfactory" level on the English Language Arts and/or Mathematics after retesting provided that certain criteria are met. (Refer to Appendix B.)

(vii) Waiver for Extenuating Circumstances. A school system through its superintendent may grant a waiver on behalf of individual students who are unable to participate in LEAP 21 testing or unable to attend LEAP 21 summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation: a physical illness or injury that is acute or catastrophic in nature, a chronic physical condition that is in an acute phase or court ordered custody issues. (Refer to Appendix.)

(viii). State Granted Exceptions. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a state-granted waiver from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances. The Department of Education will provide to the State Board of Elementary and Secondary Education detailing state-granted waivers. (Refer to Appendix B.)

iii. - iii.c. ...

iv. Summer remediation programs and end-of-summer retests must be offered by school systems at no costs to students who did not take the Spring LEAP 21 tests or who score at the Unsatisfactory level on LEAP 21.

iv.(a) - v.(a).(iii). ...

(b). Option 2 Students. Students in Option 2 will participate in a transitional program on the high school campus. Students in Option 2 will retake the eighth grade components of the LEAP 21 previously failed (English and/or Mathematics) and all parts of the Iowa Tests at the ninth grade level. For promotional purposes, a student must score at or above the Approaching Basic achievement level on the English Language Arts and Mathematics components of LEAP 21 only one time. In order to be considered for placement in to Option 2, a student must:

(i). pass at the Approaching Basic or above achievement level either the English Language Arts or Mathematics components of LEAP 21; and

(ii). participate in both the summer remediation program offered by the LEA and the summer testing. (All Option 2 Students:

[a]. shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an Unsatisfactory achievement level was attained.

[b]. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the Basic achievement level on the component of the eighth grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of Pass or Fail (P/F) on the students transcript.

[c]. shall not enroll in or earn Carnegie credit in content areas (English language arts and/or mathematics) in which the student has scored at the Unsatisfactory achievement level on the Grade Eight LEAP 21.

[d]. may earn Carnegie credit in other content areas.

vi. Exceptional students participating in LEAP 21 must be provided with significant accommodations as noted in the students IEP.

vii. The aforementioned policies will be in effect from spring 2000 through spring 2003. Beginning in spring 2004, the policies will also apply to students scoring at the Approaching Basic level.

viii. Other Requirements

(a). Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion. Refer to Appendix B for complete text of the High Stakes Testing Policy.

A.1.c. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:1433 (July 2000), LR 27:1006 (July 2001).

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. Grade 4

1. A parent/student/school compact that outlines the responsibilities of each party will be required for students in grade 3 and grade 4 who have been determined to be at risk of scoring at the Unsatisfactory level in English language arts and/or mathematics on the fourth grade LEAP for the 21st Century (LEAP 21), as well as for students who were retained in grade 4.

2. A student may not be promoted to the fifth grade until he or she has scored at or above the Approaching Basic level on the English Language Arts and Mathematics components of the fourth grade LEAP 21. For promotional purposes, however, a student shall score at or above the Approaching Basic achievement level on the English Language Arts and Mathematics components of LEAP 21 only one time

3. LEAs shall offer summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who score at the Unsatisfactory level on the spring tests.

a. A student who scores at the Unsatisfactory achievement level is not required to attend the LEA-offered LEAP 21 summer remediation program in order to be eligible for the summer retest.

b. All students with disabilities who participate in on-level testing should receive services along with regular education students in summer remediation programs, with special supports provided as needed.

c. Students with disabilities who participate in out-of-level testing and alternate assessment are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs are encouraged to offer remediation services to students who score at the Approaching Basic level.

4. In order to move students toward grade level performance, LEAs shall design and implement additional instructional program options for those fourth grade students being retained. The purpose of the additional instructional options is to move the students to grade level proficiency by providing the following focused instruction in the subject area(s) on which they scored at the Unsatisfactory level on LEAP 21, and ongoing instruction using locally-developed curricula based on state-level content standards for the core subject areas. Examples of instructional options may include alternative learning settings, individual tutoring, transitional classes, or other instructional options appropriate to the students' needs. LEAs are also encouraged to design and implement additional instructional options for students in grades 3 and 4 who have been determined to be at risk of scoring at the Unsatisfactory level on LEAP 21.

5. Retention Limit

a. The decision to retain a student in the fourth grade more than once as a result of his/her failure to score at or above the Approaching Basic achievement level in English Language Arts and/or Mathematics on LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan. These students may be either retained again in the fourth grade or promoted to the fifth grade.

i. Students retained in the fourth grade shall retake all four components of LEAP 21.

ii. For promotional purposes, however, a student shall score at or above the Approaching Basic achievement level on the English Language Arts and Mathematics components of LEAP 21 only one time.

6. Exceptions to the High Stakes Testing policy may include:

a. Policy Override

i. The local school system (LEA) may override the state policy for students scoring at the Unsatisfactory level in English language arts or mathematics if the student scores at the Proficient or Advanced level in the other provided that:

(a). the decision is made in accordance with the local Pupil Progression Plan, which may include a referral to the School Building Level Committee (SBLC);

(b). the student has participated in both the spring and summer administrations of LEAP 21 and has attended the summer remediation program offered by the LEA (The student shall participate in the summer retest only on the subject area(s) that he/she scored at the Unsatisfactory achievement level during the spring test administration; and

(c). parental consent is granted.

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. For the 2000-2001 school year only, the SBLC shall be granted the authority to waive the state's grade promotion policy for students with disabilities (excluding students with only a speech or language impairment).

(a). Students Participating in On-Level Testing

(i). A student with a disability must participate in both the summer remediation program offered by the LEA and the summer retesting to be considered for a waiver.

(b). Students Participating in Out-of-Level Testing

(i). Students with disabilities who participate in out-of-level testing shall have promotion decisions determined by the SBLC.

(c). Students Participating in Alternate Assessment

(i). Students with disabilities who participate in the alternate assessment shall have promotion decisions determined by the SBLC.

c. Exemption for Limited English Proficient (LEP) Students

i. LEP students shall begin participation in statewide assessment upon completion of one academic year in an English-speaking school. However, once a LEP student participates in the statewide assessment, the SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

ii. Preliterate LEP students and LEP students who have had no formal schooling or who have had an extended interruption in schooling may request a state-granted waiver for approval from the State Department of Education. Exemption from participation in statewide assessment will be decided on a case by case basis. Once a LEP student participates in statewide assessment, the SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student. A LEP student who was granted waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

d. Appeals Process

i. A school system, through its superintendent, may grant an appeal on behalf of individual students provided that all of the following criteria have been met.

(a). The student's highest score in English language arts and/or mathematics on either the spring or summer LEAP 21 must fall within 20 scaled score points of the cutoff score for Approaching Basic.

(b). The student shall have a 3.0 grade point average on a 4.0 scale in the subject(s) on which he/she scored Unsatisfactory on LEAP 21.

(c). The student must have attended the LEAP 21 summer remediation program.

(d). The student must have taken the LEAP 21 retest given after the LEAP 21 summer remediation program has been concluded.

(e). The student must have met state-mandated attendance regulations during the regular school year and any locally mandated regulations during the summer remediation program.

(f). The principal and the School Building Level Committee (SBLC) must review student work samples and attest that the student exhibits the ability of performing at or above the Approaching Basic achievement level in English Language Arts and/or Mathematics.

e. Waiver for Extenuating Circumstances

i. A school system through its superintendent may grant a waiver on behalf of individual students who are unable to participate in LEAP 21 testing or unable to attend LEAP 21 summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation:

(a). a physical illness or injury that is acute or catastrophic in nature;

(b). a chronic physical condition that is in an acute phase; or

(c). court ordered custody issues.

(i). Documentation: Physical Illness.

Appropriate documentation must include verification that the student is under the medical care of a licensed physician for illness, injury, or a chronic physical condition that is acute or catastrophic in nature. Documentation must include a statement verifying that the illness, injury, or chronic physical condition exists to the extent that the student is unable to participate in testing and/or remediation. Custody Issues: Certified copies of the court ordered custody agreements must be submitted to the LEA at least 10 school days prior to summer remediation or retesting.

ii. Student Eligibility/Retest Requirements

(a). Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court ordered custody category related to LEAP 21; and

(i). who are unable to participate in both the spring and the summer administration of LEAP 21, or who score at the Unsatisfactory achievement level on the spring administration of LEAP 21 mathematics and/or English language arts tests and are unable to participate in LEAP 21 summer retest, shall take the Iowa Tests for grade placement within 10 school days of returning to school, which may include hospital/homebound instruction, in order to ensure the appropriate level of instruction; must score at or above the cutoff score on the selected form of The Iowa Tests for grade placement to be promoted to the fifth grade; and are not eligible for a retest. These students may be eligible for the policy override, appeals process, or waiver (for students with disabilities under IDEA) in accordance with the local Pupil Progression Plan.

iii. Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court ordered custody category related to LEAP 21; and

(a). who are unable to participate in the spring testing and/or summer remediation including the provision of remediation through hospital/homebound instruction;

(b). are required to take the LEAP 21 summer retest. These students may be eligible for the policy override, appeals process or waiver (for students with disabilities under IDEA) in accordance with the local Pupil Progression Plan.

f. State-Granted Exceptions

i. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a state-granted waiver from the State Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances.

(a). The Department of Education will provide a report to the State Board of Elementary and Secondary Education detailing state-granted waivers.

(i). Documentation: LEA Error. The LEA superintendent or parent must provide the State Superintendent of Education with school and student level

documentation detailing the error, how the error occurred, and how the error will be corrected so that it will not occur again in the future. Other Unique Situations: Documentation must be provided to the State Superintendent of Education detailing the unique situation and justifying why a waiver should be granted.

ii. Testing/Promotion Decisions

(a). The Department of Education will communicate to the LEAs the means for establishing promotional decisions for those students who have received a state-granted waiver.

6. The promotion policies outlined above are in effect from spring 2000 through spring 2003; beginning in spring 2004, these policies will also apply to students scoring at the Approaching Basic level on LEAP 21 in English language arts and/or mathematics.

B. Grade Eight

1. A parent/student/school compact that outlines the responsibilities of each party will be required for students in grade 7 and grade 8 who have been determined to be at risk of scoring at the Unsatisfactory level in English language arts and/or mathematics on the eighth grade LEAP 21, as well as for students who were retained in grade eight.

2. A student may not be promoted to the ninth grade until he or she has scored at or above the Approaching Basic level on the English Language Arts and Mathematics components of the eighth grade LEAP 21. For promotional purposes, however, a student shall score at or above the Approaching Basic level on the English Language Arts and Mathematics components of LEAP 21 only one time.

3. LEAs shall offer summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who score at the Unsatisfactory level on the spring tests.

a. A student who scores at the Unsatisfactory achievement level is not required to attend the LEA-offered LEAP 21 summer remediation program in order to be eligible for the summer retest. All students with disabilities who participate in on-level testing should receive services along with regular education students in summer remediation programs, with special supports provided as needed.

b. Students with disabilities who participate in out-of-level testing and alternate assessment are not eligible to attend the LEAP 21 summer remediation programs.

c. LEAs are encouraged to offer remediation services to students who score at the Approaching Basic level.

4. In order to move students toward grade level performance, LEAs shall design and implement additional instructional program options for those eighth grade students being retained. The purpose of the additional instructional options is to move the students to grade level proficiency by providing the following: focused instruction in the subject area(s) on which they scored at the Unsatisfactory level on LEAP 21, and ongoing instruction using locally-developed curricula based on state-level content standards for the core subject areas. Examples of instructional options may include alternative learning settings, individual tutoring, transitional classes, or other instructional options appropriate to the students' needs. LEAs are also encouraged to design and implement additional instructional options for students in

grades 7 and 8 who have been determined to be at risk of scoring at the Unsatisfactory level on the LEAP 21.

a. School systems shall develop non-discriminatory criteria for the placement of those eighth grade students who score at the Unsatisfactory achievement level on the English Language Arts and/or the Mathematics component(s) of the LEAP 21 in either Option I or Option 2.

i. Students in Option I will repeat grade 8. Students in Option I will retake all four components of LEAP 21.

ii. Students in Option 2 will participate in a transitional program on the high school campus. Students in Option 2 will retake the eighth grade components of LEAP 21 previously failed (English and/or Mathematics) and all parts of the Iowa Tests at the ninth grade level.

iii. For promotional purposes, a student must score at or above the Approaching Basic achievement level on the English Language Arts and Mathematics components of the LEAP 21 only one time.

b. In order to be considered for placement into Option 2, a student must:

i. pass at the Approaching Basic or above achievement level either the English Language Arts or Mathematics component of LEAP 21; and

ii. participate in both the summer remediation program offered by the LEA and the summer testing.

5. In accordance with the local Pupil Progression Plan, Option I students:

a. may earn Carnegie units in accordance with the policy regarding high school credit for elementary students as found in *Bulletin 741C Louisiana Handbook for School Administration*;

b. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the Basic achievement level on the component of the eighth grade LEAP 21 that is retaken. The LEAP 21 shall be in lieu of a required credit examination. For these specially designed remediation courses, the LEA shall record a grade of Pass or Fail (P/F) on the student's transcript;

c. shall not enroll in or earn Carnegie credit in content areas (English language arts and/or mathematics) in which the student has scored at the Unsatisfactory achievement level on the Grade 8 LEAP 21.

6. All Option 2 students:

a. shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an Unsatisfactory achievement level was attained;

b. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the Basic achievement level on the component of the eighth grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of Pass or Fail (P/F) on the student's transcript;

c. shall not enroll in or earn Carnegie credit in content areas (English language arts and/or mathematics) in which the student has scored at the Unsatisfactory achievement level on the Grade 8 LEAP 21;

d. may earn Carnegie credit in other content areas.

7. Retention Limit

a. The decision to retain an eighth grade student more than once as a result of his/her failure to score at or above the Approaching Basic achievement level in English Language Arts and/or Mathematics on LEAP 21 shall be made by the LEA in accordance with the local Pupil Progression Plan which shall include the following.

i. Beginning with the 2001-2002 school year, an eighth grade student who has repeated the entire grade (Option 1) may be either retained again in the eighth grade; promoted to the ninth grade provided that the student has passed either the English Language Arts or Mathematics component of LEAP 21, has attended at least one LEAP 21 summer remediation program and taken the summer retest, and will enroll in a remedial high school course (English or mathematics) in which an Unsatisfactory achievement level was attained; or placed in a Pre-GED/Skills Program (Option 3).

ii. An eighth grade student attending class on a high school campus and earning some Carnegie credit(s) (Option 2) may be either promoted or retained in accordance with the local Pupil Progression Plan, or placed in a Pre-GED/Skills Program (Option 3).

b. Pre-GED/Skills Program (Option 3) shall be available to students who meet criteria as outlined in *Bulletin 741C Louisiana Handbook for School Administrators*, standard 1.151.05.

8. Exceptions to the High Stakes Testing policy may include:

a. Policy Override

i. The local school system (LEA) may override the state policy for students scoring at the Unsatisfactory level in English or mathematics if the student scores at the Proficient or Advanced level in the other provided that

ii. the decision is made in accordance with the local Pupil Progression Plan, which may include a referral to the School Building Level Committee (SBLC);

iii. the student has participated in both the spring and summer administrations of the LEAP 21 and has attended the summer remediation program offered by the LEA (The student shall participate in the summer retest only on the subject that he/she scored at the Unsatisfactory achievement level during the spring test administration); and

iv. parental consent is granted.

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. For the 2000-2001 school year only, the SBLC shall be granted the authority to waive the state's grade promotion policy for students with disabilities (excluding students with only a speech or language impairment).

(a). Students Participating in On-Level Testing

(i). A student with a disability must participate in both the summer remediation program offered by the LEA and the summer retesting in order to be considered for a waiver.

(b). Students Participating in Out-of-Level Testing

(i). Students with disabilities who participate in out-of-level testing shall have promotion decisions determined by the SBLC.

(c). Students Participating in Alternate Assessment

(i). Students with disabilities who participate in the alternate assessment shall have promotion decisions determined by the SBLC.

c. Exemption for Limited English Proficient (LEP) Students

i. LEP students shall begin participation in statewide assessment upon completion of one academic year in an English-speaking school. However, once a LEP student participates in the statewide assessment, the SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

ii. Preliterate LEP students and LEP students who have had no formal schooling or who have had an extended interruption in schooling may request a state-granted waiver for approval from the State Department of Education. Exemption from participation in statewide assessment will be decided on a case by case basis. Once a LEP student participates in statewide assessment, the SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student. A LEP student who was granted a waiver at the fourth grade level is ineligible for a waiver at the eighth grade level.

d. Appeals Process

i. A school system, through its superintendent, may grant an appeal on behalf of individual students provided that all of the following criteria have been met.

(a). The student's highest score in English language arts and/or mathematics on either the spring or summer LEAP 21 must fall within 20 scaled score points of the cutoff score for Approaching Basic.

(b). The student shall have a 3.0 grade point average on a 4.0 scale in the subject(s) on which he/she scored Unsatisfactory on LEAP 21.

(c). The student must have attended the LEAP 21 summer remediation program.

(d). The student must have taken the LEAP 21 retest given after the LEAP 21 summer remediation program has been concluded.

(e). The student must have met state-mandated attendance regulations during the regular school year and any locally mandated regulations during the summer remediation program.

(f). The principal and the School Building Level Committee (SBLC) must review student work samples and attest that the student exhibits the ability of performing at or above the Approaching Basic achievement level in English Language Arts and/or Mathematics.

e. Waiver for Extenuating Circumstances

i. A school system through its superintendent may grant a waiver on behalf of individual students who are unable to participate in LEAP 21 testing or unable to attend LEAP 21 summer remediation because of one or more of the following extenuating circumstances as verified through appropriate documentation:

(a). a physical illness or injury that is acute or catastrophic in nature;

(b). a chronic physical condition that is in an acute phase; or

(c). court ordered custody issues.

(i). Documentation: Physical Illness.

Appropriate documentation must include verification that the student is under the medical care of a licensed physician for illness, injury, or a chronic physical condition that is acute or catastrophic in nature. Documentation must include a statement verifying that the illness, injury, or chronic physical condition exists to the extent that the student is unable to participate in testing and/or remediation. Custody Issues: Certified copies of the court ordered custody agreements must be submitted to the LEA at least 10 school days prior to summer remediation or retesting.

ii. Student Eligibility/Retest Requirements

(a). Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court ordered custody category related to LEAP 21 and

(i). who are unable to participate in both the spring and the summer administration of LEAP 21; or

(ii). who score at the Unsatisfactory achievement level on the spring administration of LEAP 21 mathematics and/or English language arts tests and are unable to participate in LEAP 21 summer retest shall take the Iowa Tests for grade placement within 10 school days of returning to school, which may include hospital/homebound instruction, in order to ensure the appropriate level of instruction; must score at or above the cutoff score on the selected form of The Iowa Tests for grade placement to be promoted to the ninth grade; and are not eligible for a retest. These students may be eligible for the policy override, appeals process, or waiver (for students with disabilities under IDEA) in accordance with the local Pupil Progression Plan;

iii. Students who meet the criteria for extenuating circumstances under the physical illness, chronic physical condition, or court ordered custody category related to LEAP 21; and

iv. who are unable to participate in the spring testing and/or summer remediation including the provision of remediation through hospital/homebound instruction;

(a). are required to take the LEAP 21 summer retest. These students may be eligible for the policy override, appeals process or waiver (for students with disabilities under IDEA) in accordance with the local Pupil Progression Plan.

f. State-Granted Exceptions

i. A local school superintendent, a parent or guardian, or the State Department of Education may initiate a request for a state-granted waiver from the state Superintendent of Education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances.

(a). The Department of Education will provide a report to the State Board of Elementary and Secondary Education detailing state-granted waivers. Documentation:

(i). LEA Error. The LEA superintendent or parent must provide the State Superintendent of Education with school and student level documentation detailing the error, how the error occurred, and how the error will be corrected so that it will not occur again in the future. Other Unique Situations: Documentation must be provided to the

State Superintendent of Education detailing the unique situation and justifying why a waiver should be granted;

(ii). Testing/Promotion Decisions. The Department of Education will communicate to the LEAs the means for establishing promotional decisions for those students who have received a state-granted waiver.

9. The promotion policies outlined above are in effect from spring 2000 through spring 2003; beginning in spring 2004, these policies will also apply to students scoring at the Approaching Basic level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001).

Weegie Peabody
Executive Director

0107#020

RULE

Board of Elementary and Secondary Education

Rules Governing Discussion
(LAC 28:I.307)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended its Rules to Order. The amendment to LAC 28:I.307.J, Rules Governing Discussion, will allow the board to conduct business in an orderly and efficient manner.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 3. Rules of Procedure

§307. Rules of Order

A. - I. ...

J. Rules Governing Discussion

1. Board members and staff should be on time for meetings, especially the first meeting each day. It is difficult to make up lost time with such a heavy schedule of committee meetings.

2. There will be no discussion on a motion until it is seconded. The discussion shall be limited to the merits of the pending question. The order of discussion shall be left solely to the discretion of the chair. No board member will speak without first receiving recognition of the chairman.

3. Each member of the board shall be allowed to speak no more than twice on the same motion, unless he requests permission of the chair to be allowed to answer something of a personal nature or to correct a gross mistake. This shall in no way be interpreted to supersede the personal privilege prerogative of each member of the board.

4. Committee chairpersons should be cognizant of time allotted for committee work and attempt to conduct business within the time allotted. The chair shall have the right to limit, in time, the length of discussion on each motion, if time is of a critical nature.

5. The maker of the motion will be given the first opportunity to speak and to close on the motion if they so desire. It is recommended that each member, in discussing an issue before the board, attempt to:

- a. confine his remarks to the merits of the pending question;
- b. refrain from attacking a members motives;
- c. address all remarks through the chair;
- d. refrain from speaking on a prior action unless it is reconsidered by the board or committee;
- e. read reports, quotations, etc., only without objection;
- f. refrain from disturbing the board meeting, if possible; and
- g. limit response so everyone who wishes to comment on a motion can do so.

6. It is the responsibility of the president or chairperson of a committee to direct the orderly meeting discussion. The chair, as an individual member of the board, has the same right to discussion as any other member, but the impartiality required of the chair in a discussion precludes his exercising these rights while he is presiding. If the chairperson wishes to make lengthy discussion comments they should relinquish the chair to the vice-chair, secure recognition, and participate as a normal member. It is requested that any remarks which the chair wishes to make concerning an issue should be made after all other members have been recognized.

7. There will be no more than two amendments to a motion that is before the body. If one of these two is removed, another may be added.

8. A motion to close debate requires a 2/3 vote of those present and voting.

9. Only those motions which are included in the agenda and are germane will be considered.

10. State department personnel should condense all presentations as much as possible and only in special instances should these presentations exceed 30 minutes.

11. An individual board member may request from the Department any public document which has already been prepared or is in readily available form.

12. A board member may not request new research, records or reports not available and which requires compilation or research without a motion adopted by a majority of the board.

13. Only the board executive secretary, staff person assigned to the committee or the Deputy Superintendents are allowed to come up on the dais while business is being conducted.

14. The chairperson should ask all presenters to identify themselves for the record.

15. A quorum is required at full board meetings to conduct business and six votes are required to pass a motion. Two board members present and voting are required to conduct business at a committee meeting.

16. If a board member or the superintendent want to have a lengthy private discussion with another board member or members, they should not do this in front of the audience (i.e. Go to one of the side rooms.) Audience is asked to go outside the meeting room for their personal discussions.

17. It is suggested that ceremonial acknowledgments on Thursday board meetings should be made by the president and the local board member only. (In behalf of all board members.)

18. Board members are asked to remain seated when local school personnel are making presentations to the board

as it is always an honor to be recognized by state-level officials.

19. Cell phones and beepers should be turned off or taken to the side rooms for conversations when activated.

20. At the full board meeting when approving Committee minutes, any board member can request that a motion be addressed without being on the prevailing side.

21. All other rules and procedures not modified by these guidelines shall be governed by Robert's Rules of Order, revised edition.

22. In order to carry on its business in an orderly and efficient manner, the board utilizes 10 standing Committees of the whole. Full discussion of board business usually occurs at the committee level, and public comment should ideally be at that time and not after a recommendation is forwarded to the board. Opportunity to comment publicly on a Committee or board agenda item may be provided to a representative number of proponents and opponents according to the following procedures.

- a. Persons desiring to address the Committee/board should notify the chair prior to the beginning of the meeting and identify the issue or item to be addressed. Other members of the public may be recognized at the discretion of the chair.

- b. All speakers will conduct themselves in a decorous manner.

- c. The chair shall have the right to limit, in time, the length of discussion on each motion, if time is of a critical matter.

- d. The order of discussion shall be left solely to the discretion of the chair.

- e. Persons addressing the Committee/board shall confine remarks to the merits a specific agenda item before the board/Committee; refrain from attacking a board member's motives; address all remarks through the chair; refrain from speaking adversely on a prior action not pending; read reports only without objection; and refrain from disturbing the meeting.

- f. Public comments should be limited to three minutes per person.

- g. Persons making a public comment shall identify themselves and the group they represent, if any.

- h. Groups and/or organizations should designate one spokesperson.

- i. The chair shall have discretion to manage situations not addressed in these procedures.

COMMENT: It should be noted that BESE meetings while open to the public are not public hearing forums and therefore public comments allowed will be at board/Committee discretion.

K. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(A-E).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 16:297 (April 1990), LR 27:1012 (July 2001).

Weegie Peabody
Executive Director

0107#021

RULE

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

RCRA XCAccumulation Time
(LAC 33:V.1109 and 2231)(HW077*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.1109 and 2231 (Log #HW077*).

This Rule is identical to federal regulations found in 64 FR 64503-64509, 12/5/97, and 65 FR 12378-12398, 3/8/00, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The Rule covers the adoption of Rules in the RCRA X package for authorization for portions of the RCRA C program. The specific topic includes the following title: 180-day Accumulation for Waste Water Treatment Sludges from Metal Finishing. The Rule also includes changes to reflect the delegable citations for the issuance of the general and site-specific variances. The hazardous waste regulations for the state must be equivalent to those of the federal in order for the state to be authorized for the new portions of the RCRA program. The basis and rationale for this Rule are to adopt recently promulgated regulations that are equivalent or more stringent in order for the state to maintain equivalency to the RCRA C Program.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental
Quality—Hazardous Waste**

Chapter 11. Generators

Subchapter A. General

***1109. Pre-Transport Requirements**

* * *

[See Prior Text in A - E.9]

10. A generator who generates 1000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

a. the generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering

F006 wastestream or otherwise released to the environment prior to its recycling;

b. the F006 waste is legitimately recycled through metals recovery;

c. no more than 20,000 kilograms of F006 waste are accumulated on-site at any one time; and

d. the F006 waste is managed in accordance with the following:

i. the F006 waste is placed:

(a) in containers and the generator complies with the applicable requirements of LAC 33:V.Chapter 43.Subchapters H, Q, R, and V; and/or

(b) in tanks and the generator complies with the applicable requirements of LAC 33:V.Chapter 43.Subchapters I Q, R, and V, except LAC 33:V.4442 and 4445; and/or

(c) in containment buildings and the generator complies with LAC 33:V.Chapter 43.Subchapter T, and has placed its professional engineer certification that the building complies with the design standards specified in LAC 33:V.4703 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(i). a written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

(ii). documentation that the unit is emptied at least once every 180 days;

ii. in addition, such a generator is exempt from all the requirements in LAC 33:V.Chapter 43.Subchapters F and G, except for LAC 33:V.4379 and 4385;

iii. the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

iv. while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste", and

v. the generator complies with the requirements for owners or operators in LAC 33:V.Chapter 43.Subchapters B and C, with LAC 33:V.4319, and 2245.E.

11. A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of Subsection E.10.a - d of this Section.

12. A generator accumulating F006 waste in accordance with Subsection E.10 and 11 of this Section who accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of LAC

33:V.Chapters 11, 15-21, 23-29, 31-37, and 43 (except LAC 33:V.4301.D and E) and the permit requirements of LAC 33:V.Chapters 3-7 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the administrative authority if F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the administrative authority on a case-by-case basis.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:759 (May 2001), LR 27:1014 (July 2001).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2231. Variance from a Treatment Standard

* * *

[See Prior Text in A - B]

C. After receiving a petition for a variance from a treatment standard, the administrative authority may request any additional information or samples that he or she may require to evaluate the petition. Additional copies of the complete petition may be requested as needed to send to affected states and regional offices.

* * *

[See Prior Text in C.1 - 2]

D. The EPA administrator and/or the Office of Environmental Services, Permits Division will give public notice of the intent to approve or deny a petition and will provide the person requesting the variance and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the variance, the opportunity to submit written comments on the request and the conditions of the variance, allowing a 30-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the 30-day comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the variance request. The administrative authority will give public notice of the hearing at least 30 days before it occurs.

(Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.) The final decision on a variance from a treatment standard will also be published.

* * *

[See Prior Text in E - F]

G Based on a petition filed by a generator or treater of hazardous waste, the administrative authority may approve a site-specific variance from an applicable treatment standard if:

* * *

[See Prior Text in G.1 - M]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), LR 27:1015 (July 2001).

James H. Brent, Ph.D.
Assistant Secretary

0107#022

RULE

**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 has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of 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.

David W. Hood
Secretary

0107#030

RULE

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, has amended Part LVII of Title 46, 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 is an amendment to the initial Rules 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 27:1016, (July 2001).

Charlene Mora
Chairman

0107#024

RULE

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, has amended Part LVII of Title 46, 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 is an amendment to the initial Rules 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505B(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:371 (May 1996), amended LR 27:1016 (July 2001).

Charlene Mora
Chairman

0107#025

RULE

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, has amended 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 27:1017 (July 2001).

Cynthia Bridges
Secretary

0107#029

RULE

Department of Social Services Office of Family Support

Food Stamps Certification of Eligible Households
(LAC 67:III.2005 and 2007)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

Pursuant to changes in 7 CFR Parts 272 and 273, Department of Agriculture, Food and Nutrition Service, the agency will collect claims for trafficking, in addition to other types of overissuances and increases the amount of the household's monthly allotment reduction from \$10 to \$20 for intentional program violation.

The agency has also taken this opportunity to reorganize regulations on the recovery of overissued food stamp benefits into one, more coherent subchapter.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter P. Claims and Recovery of Overissued Food Stamp Benefits

§2005. Claims Against Households

A. All adult household members are jointly and severally liable for the value of any overissuance of benefits to the household. This is true regardless of whether the overissuance resulted from inadvertent error, an administrative error or an intentional program violation.

B. Action will not be taken to recover claims which are less than:

1. \$35 for inadvertent household error for participating households;

2. \$100 for administrative error for participating households; and

3. \$250 for non-participating households.

These thresholds do not apply to claims which are determined to be the result of intentional program violation or errors which are discovered in a quality control review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.B., 7 CFR 273.18.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:899 (August 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997), LR 25:2326 (December 1998), LR 27:1017 (July 2001).

§2007. Penalties

A. The Food Stamp Program shall maintain provisions relating to the disqualification penalties for intentional

program violations. These provisions are aimed at deterring Food Stamp Program abuse and improving recovery of overpayments.

B. The basis for disqualification includes the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as the commission of any act that constitutes a violation of any state food stamp statute, and the use of food stamps in certain illegal purchases. The program will not increase the benefits to the household of a disqualified person because of the disqualification.

1. Mandatory disqualification periods of one year for the first offense, two years for the second offense, and permanently for the third offense will be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or through a court of law.

2. Individuals will be disqualified for two years for a first finding by a court that the individual used or received food stamps in a transaction involving the sale of a controlled substance, and permanently for a second such finding. Permanent disqualification will also result for the first finding by a court that an individual used or received food stamps in a transaction involving the sale of firearms, ammunition or explosives with food stamps.

3. An individual convicted of trafficking food stamp benefits of \$500 or more shall be permanently disqualified.

4. An individual shall be ineligible to participate for ten years if found to have made a fraudulent statement or representation with respect to identity or residence in order to receive multiple benefits simultaneously.

C. A loss of benefits penalty shall be imposed on those food stamp recipients who fail to report earned income in a timely manner. When determining the amount of benefits the household should have received, the Office of Family Support shall not apply the 20 percent earned income deduction to the income of the household which did not timely report. By doing this, the household that benefited from the failure to timely report is penalized since the amount it has to repay in overissuance will be increased. This provision shall be applied to allotments issued for October 1996 and all allotments issued for subsequent months.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272, 273, 276 and 277, P.L.103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and FR 65:41752 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 3:738 (December 1987), LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:84 (January 1997), LR 27:1017 (July 2001).

§2009. Collection Methods

A. The agency is required to collect any overissuance as well as claims for trafficking. Collection of overissued benefits may be accomplished using various methods including, but not limited to, the following methods:

1. reducing future allotments unless a repayment schedule has been established. The amount by which the agency can reduce the household's monthly allotment in the collection of overissuances which are the result of intentional program violation is limited to 20 percent of the household's entitlement or \$20 per month, whichever is

greater, and 10 percent of the allotment or \$10, whichever is greater, for all other overissuances;

2. return of benefits;

3. cash repayment;

4. referral of delinquent food stamp claims to the Department of the Treasury for collection through the Treasury Offset Program. The Treasury Offset Program is the withholding of federal income tax returns, federal salaries or other funds payable by the federal government which may include, but not be limited to, federal retirement payments, military retirement, contractor/vendor payments, Railroad Retirement and Social Security payments. The Financial Management Service of the Treasury Department will charge an administrative fee for all collection services, and this fee will be added to the claim and deducted with any federal offset; or

5. withholding of unemployment compensation benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272, 273, 276 and 277, P.L.103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and FR 65:41752 et seq..

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:768 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 27:1018 (July 2001).

Subchapter Q. Reserved

Subchapter R. Reserved

J. Renea Austin-Duffin
Secretary

0107#032

RULE

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, has established the Teen Pregnancy Prevention Program.

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 27:1018 (July 2001).

§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 27:1019 (July 2001).

§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 27:1019 (July 2001).

§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 27:1019, (July 2001).

J. Renea Austin-Duffin
Secretary

0107#031

RULE

**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., the Louisiana Professional Engineering and Land Surveying Board amends 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 27:1019 (July 2001).

§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 27:1020 (July 2001).

§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 CR.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 Gratuity Cas 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 Ca 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 Ca 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 Cthe Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology.

Employees Cfor 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 Cintentional 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 Cthe 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 Cas 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*Ca 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*Ca 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*Cthe 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 considered 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*C

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*Cdefined 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 C 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 C 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), IR 17:804 (August 1991), LR 20:901 (August 1994), LR 27:1020 (July 2001).

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 27:1022 (July 2001).

§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 27:1022 (July 2001).

§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 27:1022 (July 2001).

§307. Reciprocity C 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 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 7:645 (December 1981), repealed LR 27:1022 (July 2001).

§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), IR 22:286 (April 1996), repealed, LR 27:1022 (July 2001).

§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 27:1022 (July 2001).

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 27:1022 (July 2001).

§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 27:1022 (July 2001).

§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 27:1023 (July 2001).

§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 27:1023 (July 2001).

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 27:1023 (July 2001).

§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 27:1023 (July 2001).

§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 27:1023 (July 2001).

§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 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 27:1024 (July 2001).

§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, 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 27:1025 (July 2001).

§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 27:1026 (July 2001).

§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 27:1026 (July 2001).

§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 27:1026 (July 2001).

§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 27:1026 (July 2001).

§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 27:1026 (July 2001).

§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 27:1026 (July 2001).

§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 27:1027 (July 2001).

§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 27:1027 (July 2001).

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 27:1027 (July 2001).

§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 27:1027 (July 2001).

§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 27:1028 (July 2001).

§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 27:1028 (July 2001).

§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 27:1028 (July 2001).

§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 27:1029 (July 2001).

§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 27:1029 (July 2001).

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 27:1029 (July 2001).

§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 27:1029 (July 2001).

§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 27:1029 (July 2001).

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 5:112 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), LR 27:1030 (July 2001).

§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 27:1030 (July 2001).

§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 27:1030 (July 2001).

§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 27:1030 (July 2001).

§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 27:1030 (July 2001).

§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 27:1030 (July 2001).

§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 27:1031 (July 2001).

§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 27:1031 (July 2001).

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 27:1031 (July 2001).

§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 27:1031 (July 2001).

§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 27:1031 (July 2001).

§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 27:1031 (July 2001).

§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 27:1031 (July 2001).

§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 27:1031 (July 2001).

§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 27:1032 (July 2001).

§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 27:1032 (July 2001).

§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 27:1032 (July 2001).

§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 27:1032 (July 2001).

§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 27:1032 (July 2001).

§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 27:1032 (July 2001).

§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 27:1032 (July 2001).

§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 27:1032 (July 2001).

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 27:1032 (July 2001).

§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 27:1033 (July 2001).

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 27:1033 (July 2001).

§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 27:1033 (July 2001).

§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 27:1033 (July 2001).

§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 27:1033 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

§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 27:1034 (July 2001).

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 27:1035 (July 2001).

§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 27:1035 (July 2001).

§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 27:1035 (July 2001).

§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 27:1035 (July 2001).

§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 27:1035 (July 2001).

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 27:1035 (July 2001).

§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 27:1036 (July 2001).

§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 27:1036 (July 2001).

§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 27:1036 (July 2001).

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 27:1036 (July 2001).

§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 27:1037 (July 2001).

§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 27:1037 (July 2001).

§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 27:1038 (July 2001).

§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 licensees' 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 licensees' 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 27:1038 (July 2001).

§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 27:1038 (July 2001).

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:

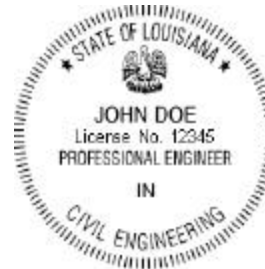
i. 1-5/8 inch seal commonly used in pocket seals; and

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 27:1039 (July 2001).

§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 27:1041 (July 2001).

§ 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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1041 (July 2001).

§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 27:1042 (July 2001).

§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 27:1042 (July 2001).

§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 27:1042 (July 2001).

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 27:1042 (July 2001).

§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*Ca 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*Cthe 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 27:1042 (July 2001).

§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.

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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 27:1043 (July 2001).

§2907. Property Boundary Survey

A. Definition

*Mineral Unit Survey (or Unit Plat)*Ca 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*Ca 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 27:1043 (July 2001).

§2909. Accuracy Specification and Positional Tolerances

Condition	A	B	C	D	Remarks And Formula
	Urban Business District	Urban	Suburban	Rural	
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"vN	15"vN	25"vN	30"vN	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.

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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 27:1046 (July 2001).

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 27:1046 (July 2001).

§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 27:1047 (July 2001).

§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 27:1047 (July 2001).

§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 27:1048 (July 2001).

§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 27:1048 (July 2001).

§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 27:1048 (July 2001).

§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 27:1048 (July 2001).

§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 27:1049 (July 2001).

§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 27:1049 (July 2001).

§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 27:1049 (July 2001).

§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 27:1049 (July 2001).

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 27:1049 (July 2001).

H. Glen Kent, Jr., P.L.S.
Executive Secretary

0107#023

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

General and WMA Hunting (LAC 76:XIX.111)

The Wildlife and Fisheries Commission has amended the rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General and Wildlife Management Area Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The secretary of the Department of Wildlife and Fisheries has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the Department of Wildlife and Fisheries a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed seas on. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle, or shotgun during daylight hours during the open rabbit season. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is one per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. Nutria may be taken recreationally September 1 through February 28 during legal shooting hours by any legal method with no limit, including WMAs. Pelting or selling of carcasses is illegal EXCEPT when taken by a licensed trapper during the trapping season.

4. Blackbirds and crows. All blackbirds, cowbirds, grackles and crows are considered crop depredators in Louisiana and may therefore be taken year round during legal shooting hours with no limit. Shooting hours are 30 minutes before sunrise to sunset.

5. Pheasant. Closed.

6. Falconry. Special permit required. Resident and migratory game species except turkeys may be taken. Seasons and bag limits are the same as for statewide and WMA regulations except squirrels may be taken by licensed falconers until the last day of February. Refer to LAC 76:V.301 for specific Falconry Rules.

7. Licensed Hunting Preserve. October 1 - April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

8. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and 54/acre fee. Deer management assistance tags must be in the possession of the hunter and attached and locked to antlerless deer (including those taken on either-sex days and those taken with bow or

muzzleloader) through the hock in a manner that it cannot be removed before the deer is moved from the site of the kill. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. Refer to LAC 76:V.111 for specific DMAP Rules.

9. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission (LWFC).

Supplemented Hunting Preserve for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the Department of Wildlife and Fisheries (LDWF) and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-tailed Deer: Consult the regulations pamphlet.

ii. Exotics: year round.

c. Methods of Take

i. White-tailed Deer: Same as outside.

ii. Exotics: Exotics may be taken with longbow (including compound bow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only.

d. Shooting Hours

i. White-tailed Deer: Same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-tailed Deer: Same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

i. White-tailed Deer: Same as outside.

ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969 shall hunt with a firearm unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course taught or approved by the Department of Wildlife and Fisheries. However, a person younger than 16 years of age may hunt without such certificate if he is accompanied by and is under the direct and immediate supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer or turkey. A separate wild turkey stamp is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. Use of a longbow (including compound bow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey and migratory game birds. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a muzzleloader rifle larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

b. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the department, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date

of the permit. For specific details contact a regional office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to possess, sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the department. This permit shall be valid for 30 days from the date of issuance. Contact the local regional office for details.

7. Threatened and Endangered Species. Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwaters greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Unregulated Quadrupeds. Holders of a legal hunting license may take coyotes, unmarked hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to Chase only during still hunting segments of the firearm and archery only season for deer. Foxes and bobcats are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with bow, muzzleloader and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. Sex Identification. Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the State of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is en route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. One antlered and one antlerless (when legal on private lands) deer per day except on Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day. Six per season (all segments included) by all methods of take.

2. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing does is prohibited except where specifically allowed.

3. Deer hunting restricted to legal bucks only, except where otherwise allowed.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. Except in wildlife management areas, a leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. Areas not specifically designated as open are closed.

9. Muzzleloader Segment: (Special license and muzzleloader firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Muzzleloader license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a muzzleloader, including those powered by air or other means, while hunting during the special muzzleloader segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Muzzleloader Firearms For Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only,

including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

10. Archery Segment. Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Residents 60 years of age and older may use a crossbow without a special permit or license. Either sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, archer's must conform to the bucks only regulations. Either sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Pass-a-Loutre and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and arrow regulations: Hunting arrows for deer must have well-sharpened metal broadhead blades not less than 7/8 inch in width. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow, arrows with explosive tips, or any bow drawn, held or released by mechanical means except that hand held releases are lawful.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d). to hunt with a bow or crossbow fitted with an infrared or laser sight.

11. Hunter Orange. Any person hunting deer shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" during the open deer gun season including muzzleloader season. Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange".

12. Special Handicapped Either-Sex Deer Season on Private Land. See regulations pamphlet for dates. Restricted to individuals with Physically Challenged Hunter Permit.

13. Special Youth Deer Hunt. See regulations pamphlet for dates.

F. Description of Areas

1. Area 1

a. All of the following parishes are open: East Feliciana, St. Helena, Concordia, Franklin, Tensas, East Baton Rouge, Madison, Washington.

b. Portions of the following parishes are also open:

i. Avoyelles CNorth of La. 1.

ii. CatahoulaCAll except that portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry, west of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

iii. GrantCEast of U.S. 165 and south of La. 8.

iv. LaSalleCPortion south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula Parish line.

v. LivingstonCNorth of I-12.

vi. RapidesCEast of U.S. 165 and north of Red River.

vii. St. TammanyCAll except that portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

viii. TangipahoaCNorth of I-12.

ix. West FelicianaCAll except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. AvoyellesCThat portion surrounding Pomme de Terre WMA, bounded on the north, east, and south by La. 451 and on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville, southward to its juncture with La. 451.

ii. CatahoulaCSouth of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to La. 8 at Harrisonburg, west of La. 8 to La. 913, west of La. 913 and La. 15 to Deer Creek.

iii. East Feliciana and East Baton RougeCEast of Thompson Creek from the Mississippi state line to La. 10. North of La. 10 from Thompson Creek to La. 67 at Clinton, west of La. 67 from Clinton to Mississippi state line. South of Mississippi state line from La. 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of La. 67 from La. 64 north to Parish line, south of Parish line from La. 64 eastward to Amite River. West of Amite River southward to La. 64, north of La. 64 to La. 37 at Magnolia, east of La. 37 northward to La. 64 at Indian Mound, north of La. 64 from Indian Mound to La. 67. Also, that portion of East Feliciana Parish east of La. 67 from parish line north to La. 959, south of La. 959 east to La. 63, west of La. 63 to Amite River, west of Amite River, southward to parish line, north of parish line westward to La. 67.

iv. FranklinCAll.

v. St. HelenaCNorth of La. 16 from Tickfaw River at Montpelier westward to La. 449, east and south of La. 449 from La. 16 at Pine Grove northward to La. 1045, south of La. 1045 from its junction with La. 449 eastward to the Tickfaw River, west of the Tickfaw River from La. 1045 southward to La. 16 at Montpelier.

vi. TangipahoaCThat portion of Tangipahoa Parish north of La. 10 from the Tchefuncte River to La. 1061 at Wilmer, east of La. 1061 to La. 440 at Bolivar, south of La. 440 to the Tchefuncte River, west of the Tchefuncte River from La. 440 southward to La. 10.

vii. Washington and St. TammanyCEast of La. 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from La. 21

eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to La. 21. Also, that portion of Washington Parish west of La. 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany parish line to the Tangipahoa parish line, east of the Tangipahoa parish line to the Mississippi state line, south of the Mississippi state line to its junction with La. 25.

viii. West FelicianaCWest of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of U.S. 61 and La. 966, east of La. 966 from U.S. 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Jackson, Union, Bossier, Lincoln, Webster, Caddo, Natchitoches, Winn, Claiborne, Red River, DeSoto, Sabine, Caldwell.

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. AllenC North of U.S. 10 from the parish line to U.S. 165, east of U.S. 165 from the intersection of La. 10 to the intersection of U.S. 190 at Kinder and north of U.S. 190 from Kinder east to the parish line.

ii. AvoyellesCThat portion west of I-49.

iii. CatahoulaCThat portion lying west of Boeuf River from Caldwell parish line to Ouachita River, north and east of Ouachita River to La. 559 at Duty Ferry. West of La. 559 to La. 124. North and west of La. 124 westward to LaSalle parish line.

iv. EvangelineCAll except the following portions: east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte, and north of U.S. 167 east of Ville Platte.

v. GrantCAll except that portion south of La. 8 and east of U.S. 165.

vi. Jefferson Davis CNorth of U.S. 190.

vii. LaSalleCAll except south of La. 8 from Little River eastward to La. 127 in Jena, east of La. 127 from Jena northward to U.S. 165, east of U.S. 165 from La. 127 northward to La. 124. South of La. 124 eastward to Catahoula parish line.

viii. MorehouseCWest of U.S. 165 (from Arkansas state line) to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, west of La. 139 to junction of La. 593, west and south of La. 593 to Collinston, west of La. 138 to junction of La. 134 and north of La. 134 to Ouachita line at Wham Brake.

ix. OuachitaCAll except south of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Brake.

x. RapidesCAll except north of Red River and east of U.S. 165. South of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill, and north of La. 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and U.S. 167 to junction of U.S. 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. VernonCNorth of La. 10 from the parish line to the intersection of La. 113, south and east of La. 113 eastward to the parish line. North and east of La. 465, west of La. 117 from Kurthwood to Leesville, and north of La. 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes.

i. Claiborne and WebsterCCaney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. OuachitaCEast of Ouachita River.

iii. RapidesCWest of U.S. 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish line, north of Parish line westward to U.S. 165, east of U.S. 165 northward to U.S. 167 at Alexandria. North of La. 465 from Vernon Parish line to La. 121, west of La. 121 to I-49, west of I-49 to La. 8, south and east of La. 8 to La. 118 (Mora Road), south and west of La. 118 to Natchitoches Parish line.

iv. VemonCEast of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to La. 465, east and north of La. 465 to Rapides Parish line.

3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. AllenCSouth of U.S. 190 and west of La. 113.

ii. BeauregardCWest of La. 113. ALSO east of La. 27 north to DeRidder and north and west of U.S. 190 west of DeRidder to Texas state line.

iii. CalcasieuCEast of La. 27 and south of U.S. 90.

iv. IberiaCWest of U.S. 90 and north of La. 14.

v. Jefferson Davis CAll except north of U.S. 190.

vi. LafayetteCWest of I-49 and U.S. 90.

vii. RapidesCSouth of La. 465 to junction of La. 121, west of La. 121 and La. 112 to Union Hill and north of La. 113 from Union Hill to Vernon Parish line.

viii. St. LandryCWest of U.S. 167.

ix. VernonCWest and north of La. 113, south of La. 465, east of La. 117 from Kurthwood to Leesville, and south of La. 8 from Leesville to Texas state line.

4. Area 4

a. All of East Carroll and Richland parishes are open.

b. Portions of the following parishes are open.

i. MorehouseCEast of U.S. 165 (from Arkansas state line) to Bonita, south and east of La. 140 to junction of La. 830-4 (Cooper Lake Road), east of La. 830-4 to Bastrop, east of La. 139 at Bastrop to junction of La. 593, east and north of La. 593 to Collinston, east of La. 138 to junction of

La. 134 and south of La. 134 to Ouachita line at Wham Brake.

ii. OuachitaCSouth of U.S. 80 and east of Ouachita River, east of La. 139 from Sicard to junction of La. 134, south of La. 134 to Morehouse line at Wham Bake.

5. Area 5

a. All of West Carroll Parish is open.

i. All deer hunting is for bucks only including muzzleloader season.

6. Area 6

a. All of Orleans Parish is closed to all forms of deer hunting.

b. All of the following parishes are open: Ascension, Plaquemines, St. John, Assumption, Pointe Coupee, St. Martin, Iberville, St. Bernard, Jefferson, St. Charles, Lafourche, St. James, West Baton Rouge.

c. Portions of the following parishes are also open.

i. AvoyellesCSouth of La. 1 and also that portion east of I-49.

ii. EvangelineCThat portion east of I-49 to junction of La. 29, east of La. 29 south of I-49 to Ville Platte and north of U.S. 167 east of Ville Platte.

iii. IberiaCEast of U.S. 90.

iv. LafayetteCEast of I-49 and U.S. 90.

v. LivingstonCSouth of I-12.

vi. RapidesCSouth of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. LandryCEast of U.S. 167.

viii. St. MaryCNorth of U.S. 90.

ix. St. TammanyCThat portion south of I-12, west of Hwy. 1077 to La. 22, south of La. 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. TangipahoaCSouth of I-12.

xi. West FelicianaCWest of Mississippi River, known as Raccourci and Turnbull Islands.

d. Still hunting only in all or portions of the following parishes.

i. PlaqueminesCEast of the Mississippi River.

ii. RapidesCSouth of Alexandria between Red River and U.S. 167 to the junction of U.S. 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iii. St. BernardCAll of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

iv. St. JohnCSouth of Pass Manchac from Lake Pontchartrain to U.S. 51, east of U.S. 51 from Pass Manchac to La. 638 (Frenier Beach Road). North of La. 638 from U.S. 51 to Lake Pontchartrain. West of Lake Pontchartrain from La. 638 to Pass Manchac.

v. St. LandryCThose lands surrounding Thistlethwaite WMA bounded north and east by La. 359, west by La. 10, and south by La. 103.

7. Area 7

a. The following parish is open: Terrebonne.

b. Portions of the following parishes are open: Iberia and St. Mary Parishes - South of La. 14 and west U.S. 90.

8. Area 8

a. Portions of the following parishes are open:

i. Allen - That portion lying south of La. 10 from the parish line near Elizabeth to the intersection of U.S. 165, west of U.S. 165 from the intersection of La. 10 to the intersection of U.S. 190 at Kinder, and east of La. 113 from the intersection of U.S. 190 to the parish line;

ii. Vernon - That portion lying south and east of La. 113 from the parish line to Pitkin, and south of La. 10 from Pitkin to the parish line;

iii. Beauregard - That portion lying east of La. 113. Also that portion lying south and east of La. 190 from the Texas state line to DeRidder, and west of La. 27 from DeRidder to the parish line;

iv. Calcasieu - That portion lying west of La. 27 from the parish line near DeQuincy to Sulphur and north of U.S. 90 from Sulphur to the Texas state line.

G Wildlife Management Area Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. Wildlife management area seasons may be altered or closed anytime by the department secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 3 a.m. unless otherwise specified. On days when Daily permits are required, permit stations will open two hours before legal shooting hours. Hunters must check out and exit the WMA no later than two hours after sunset, except for Lake Boeuf, Salvador/Timken and Pointe-aux-Chenes or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF regional office for additional information.

f. Dumping garbage or trash on WMAs except in designated locations is prohibited.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Commercial activities prohibited without prior approval or unless otherwise specified.

i. Damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.) and wild plants is prohibited without prior approval. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day. Persons engaged in commercial activities must obtain a permit from the region office.

j. Burning of marshes is prohibited except by permit. Permits may be obtained from the Fur and Refuge Division.

k. Nature Trails. Access to trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

l. Deer seasons are for legal buck deer unless otherwise specified.

m. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

n. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and state seed grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

2. Permits

a. Daily. Daily permits when required shall be obtained at permit stations on or near each WMA. Hunters must retain permit in possession while hunting. Hunters may enter the area no earlier than two hours before legal shooting time unless otherwise specified. Hunters must checkout daily and exit the area not later than two hours after sunset unless otherwise specified.

b. Self Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, bird-watching, sightseeing, etc.) On WMAs unless otherwise specified. The Self-Clearing Permit will consist of three portions: check in, check out and a Vehicle Tag. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an Information Station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity. The check out portion must be carried by each person while on the WMA and MUST be completed and put in a permit box after each day's activity on the day of the activity. Each person must leave the Vehicle Tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. In an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. Call the appropriate region office for the location of the deer check station on these WMAs. (Self-Clearing Permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Wild Louisiana Stamp. Persons using WMAs or other department administered lands for purposes other than hunting and fishing, such as camping, shooting on rifle ranges, berry picking, hiking, photography, bird-watching and the like, must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement.

3. Special Seasons

a. Youth Deer Hunt. Only youths younger than 16 years of age may hunt. All other seasons are closed except handicapped seasons. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Each youth must be accompanied by one adult 18 years of age or older. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. An adult may supervise only one youth during this special hunt. Contact the appropriate region office for special check station locations when daily permits are required and maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

b. Handicapped Season. For hunters possessing a Physically Challenged Hunter Permit only. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Handicapped Seasons. Pointe-aux-Chenes will have an experimental Lottery Handicapped waterfowl hunt. Contact the New Iberia Office, Fur and Refuge Division for details.

c. Deer Lottery Hunts. Hunts restricted to those persons selected as a result of the pre-application lottery. Consult the regulations pamphlet for deadlines. A non-refundable application fee must be sent with application. Contact region offices for applications. Consult regulations pamphlet for WMAs offering lottery hunts.

d. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at Self Clearing station. Contact Region Offices for more details. Consult separate Turkey Hunting Regulations pamphlet for WMAs offering lottery hunts.

e. Trapping. Permits to take fur bearers from WMAs may be obtained at appropriate offices when required. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. On WMAs where permits are required, each trapper must submit an annual trapping report to the Region Office where his permit was obtained. Non-compliance will result in forfeiture of trapping privileges on the WMAs. Permits may be obtained only between hours of 8 a.m. to 4:30 p.m. on normal working days at region offices. Hunter orange required when a deer gun season is in progress. A permit is required to carry a firearm outside of the normal hunting season and is available at the region office.

f. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime Experimental Season dates for specific WMAs are for nighttime raccoon hunting and permits may be required. There is no bag limit for raccoons at night unless specified in the annual regulations pamphlet. Raccoon hunters with dogs must submit an annual report of their kill to the region office for WMAs where permits are required. Non-compliance will result in forfeiture of raccoon or all hunting privileges on WMAs. Permits, when required, may

be obtained at region offices only between hours of 8 a.m. to 4:30 p.m. on normal working days.

g. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of La. 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

h. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except nighttime frogging prohibited on Salvador/Timken and Pointe-aux-Chenes.

i. Additional Department Lands. The department manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Rapides, Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate Wildlife and Fisheries Region Office for specific information and any additional season dates.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under Wildlife Management Area listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails or their rights-of-way is

prohibited during the modern firearm and muzzleloader deer season.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On Wildlife Management Areas, Federal Refuges and National Forest Lands where the daily limit shall be one deer per day, six per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included). Unmarked hogs may be taken on some WMAs by properly licensed hunters from the beginning of archery season on the area until February 28 and only with guns/ammunition or bow and arrow legal for specified seasons in progress. Consult the specific WMA for additional information. Proper licenses and permits are required for hunting.

d. Hunters who kill deer on WMAs that require daily permits must have deer checked at the check station on same day of kill.

e. Deer hunting on WMAs is restricted to still hunting only. No WMA will be open for deer during early still hunt season unless specified in the regulation pamphlet.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed.

g. On Wildlife Management Areas and Refuges, all deer stands must be removed from the area no later than two hours after the end of legal shooting hours each day. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

h. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal, poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. All decoys must be removed from the WMA daily.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the Department of Wildlife and Fisheries and disposed of by the department. This action is necessary to prevent preemption of hunting space.

l. Hunters shall not hunt, take or pursue birds or animals from moving vehicles on any WMA. No person shall take birds or animals from or by any motor boat or sail boat unless the motor has been completely shut off and/or the sail furled and its progress therefrom has ceased.

m. Spot lighting (shining) from vehicles is prohibited on all WMAs.

n. Horses and mules may be ridden on Wildlife Managements Areas except where prohibited and except

during gun seasons for deer and turkey. Riding is restricted to designated roads and trails. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified.

o. All hunters except waterfowl hunters and dove hunters (including archers and small game hunters) on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Quail hunters, woodcock hunters and archers (while on the ground) as well as hunters participating in special dog seasons for rabbit and squirrel are required to wear a minimum of a "hunter orange" cap. also all persons afield during hunting seasons are encouraged to display "hunter orange".

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or handicapped hunters are in progress. Consult regulations pamphlet for specific seasons.

q. Either sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Muzzleloader Season for Deer. See WMA deer schedule.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to Department-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for camping and overnight mooring of houseboats on Pass-a-Loutre and can be obtained from the WMA headquarters. Houseboat mooring permits are required for Atchafalaya Delta Wildlife Management Area. Permits may be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by State and Federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the health unit (Department of Health

and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. All oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or hunting in restricted areas or refuges.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting and bird dog training when allowed. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons.

9. Vehicles

a. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

b. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within wildlife management areas due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

c. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles. ATV tires are restricted to those with a maximum one inch lug height and a maximum allowable tire pressure of 7 psi, as indicated on the tire by the manufacturer.

d. Airboats, aircraft, personal water craft and hover craft are prohibited on all WMAs and refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA.

e. No internal combustion engines allowed in certain Greentree reservoirs.

f. Driving or parking vehicles on food or cover plots and strips is prohibited.

g. Blocking the entrance to roads and trails is prohibited.

h. Motorized vehicles, including ATVs, ATCs and motorcycles, are restricted entirely to designated roads and ATV trails as indicated on WMA maps. WMA maps available at all region offices. This restriction does not apply to bicycles.

i. Use of special ATV trails for handicapped persons is restricted to special ATV handicapped permittees. Handicapped ATV permittees are restricted to handicapped ATV trails or other ATV trails only as indicated on WMA maps. Persons 60 years of age and older, with proof of age, are also allowed to use special handicapped trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Handicapped persons should make application for a Physically Challenged Hunter Program Permit with the department.

j. Entrances to ATV trails will be marked with peach colored paint. Entrances to handicapped-only ATV trails will be marked with blue colored paint. Routes of all trails are as indicated on WMA maps. Deviation from the trails indicated on the map constitutes a violation of WMA rules and regulations.

k. Roads and trails may be closed due to poor condition, construction or wet weather.

l. ATVs, ATCs and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 3:00 AM. Trails and roads designated as ATV only shall be closed to ATVs from March 1 through August 31 unless otherwise specified. Certain trails may be open during this time period to provide access for fishing or other purpose. These trails will be marked by signs at the entrance of the trail.

m. Caution: Many department-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

10. Wildlife Management Areas Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

11. Resident Small Game (squirrel, rabbit, quail, dove, woodcock, snipe, rail and gallinule). Consult regulations pamphlet.

12. Waterfowl (ducks, geese and coots). Consult regulations pamphlet.

13. Archery. Consult regulations pamphlet.

14. Hogs. Consult regulations pamphlet.

15. Outlaw Quadrupeds and Birds. Consult regulations pamphlet.

16. Wildlife Management Areas Hunting Schedule and Regulations:

a. Alexander State Forest. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the Department of Wildlife and Fisheries at any time. ATVs, ATCs and motorcycles prohibited.

- c. Attakapas. Free-ranging livestock prohibited.
- d. Bayou Macon. All night activities prohibited except as otherwise provided. Mules are allowed for nighttime raccoon hunting.
- e. Bayou Pierre
- f. Bens Creek
- g. Big Colewa Bayou. All nighttime activities prohibited.
- h. Big Lake. Free-ranging livestock prohibited.
- i. Biloxi
- j. Bodcau
- k. Boeuf. Free-ranging livestock prohibited.
- l. Boise-Vernon
- m. Buckhorn. Free-ranging livestock prohibited.
- n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self Clearing Permit required once per year. Free-ranging livestock prohibited. All game harvested must be reported. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details.
- o. Dewey W. Wills. Crawfish: 100 pounds per person per day.
- p. Elm Hall. No ATVs allowed.
- q. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special regulations apply to ATV users.
- r. Georgia-Pacific. except as otherwise provided, all nighttime activities prohibited.
- s. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. Free-ranging livestock prohibited. No hunting in restricted area.
- t. Jackson-Bienville. ATVs are allowed on non-public maintained gravel roads and timber management woods, roads and trails.
- u. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.
- v. Lake Boeuf
- w. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.
- x. Little River
- y. Loggy Bayou
- z. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.
- aa. Ouachita. Waterfowl Refuge: North of Ia. Hwy. 15 closed to all hunting, fishing and trapping during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.
- ab. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described

on the department Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited.

ac. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting will be closed when the river stage at Pearl River reaches 16.5 feet except waterfowl hunting south of Hwy. 90. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open noon until 4 p.m. Friday, and 8 a.m. to 4:30 p.m. Saturday and Sunday with a fee.

ad. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self Clearing Permit required once per year. Special federal regulations apply to ATV users.

ae. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for dove hunting and experimental youth deer hunt, as specified in regulation pamphlet. Point Farm: Gate will be open during each Saturday of the second split of dove season and all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken by rod and reel or hand lines for recreational purposes only. Crabs may be taken through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Mudboats or vessels with engines larger than 25 hp prohibited in the Montegut and Grand Bayou marsh management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue. Vehicles prohibited on Point Farm properties unless authorized by the department. ATVs, ATCs and motorcycles prohibited on this area.

af. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season. Commercial Fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed after 2 p.m. only during waterfowl season. Crawfish: April 1 - July 31, recreational only, 100 lbs. per boat or group daily. Free-ranging livestock prohibited.

ag. Red River. Free-ranging livestock prohibited. Crawfishing prohibited on Wetland Restoration Areas.

ah. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. Waterfowl hunting after 2 p.m. prohibited. All vehicles including ATVs prohibited.

ai. Sabine
aj. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

ak. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Fish may be taken by rod and reel or hand lines for recreational purposes only. Crabs may be taken through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the wildlife management area and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 hp are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and Baie du Cabanage" and the Rathborne Access ditch. Operation of the above described internal combustion engines in interior ditches is prohibited except by experimental permit to be obtained from the New Orleans Office, Fur and Refuge Division, Room 217. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Special Use Permits may be issued for persons interested in clearing existing ditches (trenasses). Permits will be considered on a case-by-case basis. Contact Pointe-aux-Chenes. ATVs, ATCs and motorcycles prohibited on this area.

al. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Organized trail rides prohibited. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. No motorized vehicles allowed off designated roads. Free-ranging livestock prohibited.

am. Sherburne. Crawfishing: Recreational crawfishing only on the North and South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing allowed on the remainder of the area. Permit is required. Free-ranging livestock prohibited. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic

prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne Wildlife Management Area will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

an. Sicily Island Hills. Firearms and any game harvested cannot be transported through the area except during the corresponding open season on area. Free-ranging livestock prohibited.

ao. Soda Lake. No motorized vehicles allowed. All trapping and hunting prohibited except archery hunting for deer.

ap. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this camp site. Water skiing allowed only in Old River and Grand Lac.

aq. Thistlethwaite. No hunting or trapping in restricted area (See WMA Map). All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

ar. Three Rivers. Free-ranging livestock prohibited in area.

as. Tunica Hills. All vehicles restricted to Parish roads. ATVs restricted to designated trails. Driving on food plots prohibited. Access to restricted areas is unauthorized. Refer to WMA map. Camping prohibited on area. North of Hwy. 66 (Angola Tract) closed to the general public March 1-September 30 except spring turkey hunting access allowed for those individuals drawn for special lottery hunt.

at. Union. All nighttime activities prohibited except as otherwise provided.

au. West Bay. Road Travel and Hunting Restrictions: All motorized vehicles restricted to designated roads. Refer to WMA map for location of designated roads. Hunting prohibited on roads designated for motorized vehicular travel.

av. Wisner

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001).

James L. Patton
Undersecretary

0107#028

RULE

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

Resident Game Hunting Season C2001-2002
(LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting And Wma Regulations

Chapter 1. Resident Game Hunting Season

§101. General

A. The Resident Game Hunting Season, 2001-2002 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001).

§103. Resident Game Birds and Animals 2001-2002

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 17-Feb. 28	10	20
Rabbit	Oct. 6-Feb. 28	8	16
Squirrel	Oct. 6-Feb. 10	8	16
Deer	See Schedule	1 antlered and 1 antlerless (when legal on private lands)	6/season

C. Deer Hunting Schedule

Area	Archery	Muzzleloader (All Either Sex)	Still Hunt (No Dogs Allowed)	With or Without Dogs
1	Oct. 1-Jan. 31	Nov. 10-Nov. 16 Jan. 21-Jan. 27	Nov. 17-Dec. 2 Jan. 7-Jan. 20	Dec. 8-Jan. 6
2	Oct. 1-Jan. 31	Oct. 27-Nov. 2 Jan. 12-Jan. 18	Nov. 3-Dec. 7	Dec. 8-Jan. 11
3	Sept. 15-Jan. 15	Oct. 6-Oct. 12 Dec. 10-Dec. 14	Oct. 13-Dec. 9 Dec. 15-Jan. 1	
4	Oct. 1-Jan. 31	Nov. 10-Nov. 16 Jan. 12-Jan. 18	Nov. 17-Jan. 11	
5	Oct. 1-Jan. 31	Nov. 10-Nov. 16 Jan. 12-Jan. 18 Bucks Only	Nov. 17-Nov. 25	
6	Oct. 1-Jan. 31	Nov. 10-Nov. 16 Jan. 21-Jan. 27	Nov. 17-Dec. 2	Dec. 8-Jan. 20

7	Oct. 1-Jan. 31	Oct. 6-Oct. 19	Oct. 20-Nov. 11 Nov. 17-Nov. 25	Nov. 26-Jan. 1
8	Sept. 15-Jan. 15	Oct. 6-Oct. 12 Dec. 3-7	Oct. 13-Nov. 30	Dec. 1-Jan. 1

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Modern Firearm Either-Sex Days
Acadia	Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
Allen	Area 2: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
	Area 3: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
	Area 8: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
Ascension	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Assumption	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Avoyelles	Area 1: Nov. 17-18, 23-25, Dec. 8-9
	Area 2: Nov. 3-4, 23-25, Dec. 8-9
	Area 6: Nov. 17-18, 23-25, Dec. 8-9
Beauregard	Area 2: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
	Area 3: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
	Area 8: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
Bienville	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
Bossier	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
Caddo	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
Calcasieu	Area 2: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
	Area 3: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
	Area 8: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
Caldwell	Nov. 3-4, 23-25, Dec. 1-2, 8-9
Cameron	Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
Catahoula	Area 1: Nov. 17-18, 23-25, Dec. 1-2, 8-9
	Area 2: Nov. 3-4, 23-25, Dec. 1-2, 8-9
Claiborne	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
Concordia	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16, 22-23
DeSoto	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
East Baton Rouge	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
East Carroll	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16, 22-23, East of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison parish line.
	Nov. 17-18, 23-25, the remainder of the parish.
East Feliciana	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Evangeline	Area 2: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
	Area 6: Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Franklin	Nov. 17-18, 23-25, Dec. 1-2
Grant	Area 1: Nov. 17-18, 23-25, Dec. 1-2, 8-9
	Area 2: Nov. 3-4, 10-11, 17-18, 23-25, Dec. 1-2, 8-9
Iberia	Area 3: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
	Area 6: Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
	Area 7: Oct. 20-21, Nov. 17-18, 23-25, Dec. 8-9
Iberville	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Jackson	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
Jefferson	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Jefferson Davis	Area 2: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
	Area 3: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
Lafayette	Area 3: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
	Area 6: Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Lafourche	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
LaSalle	Area 1: Nov. 17-18, 23-25, Dec. 8-9
	Area 2: Nov. 3-4, 23-25, Dec. 8-9
Lincoln	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
Livingston	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Madison	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16, 22-23
Morehouse	Area 2: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
	Area 4: Nov. 17-18, 23-25
Natchitoches	Nov. 3-4, 10-11, 17-18, 23-25, Dec. 1-2, 8-9
Orleans	Closed to all deer hunting

Ouachita	Area 2: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9 Area 4: Nov. 17-18, 23-25
Plaquemines	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Pointe Coupee	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Rapides	Area 1: Nov. 17-18, 23-25, Dec. 1-2, 8-9
	Area 2: Nov. 3-4, 10-11, 17-18, 23-25, Dec. 1-2, 8-9 Area 3: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 17-18, 23-25 Area 6: Nov. 17-18, 23-25, Dec. 1-2, 8-9
Red River	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
Richland	Nov. 17-18, 23-25
Sabine	Nov. 3-4, 10-11, 17-18, 23-25, Dec. 1-2, 8-9
St. Bernard	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
St. Charles	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
St. Helena	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
St. James	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
St. John	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
St. Landry	Area 3: Oct. 13-14, Nov. 23-25, Dec. 8-9 Area 6: Nov. 17-18, 23-25, Dec. 8-9
St. Martin	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
St. Mary	Area 6: Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16 Area 7: Oct. 20-21, Nov. 17-18, 23-25, Dec. 8-9
St. Tammany	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Tangipahoa	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Tensas	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16, 22-23
Terrebonne	Oct. 20-21, Nov. 17-18, 23-25, Dec. 8-9
Union	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
Vermillion	Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
Vernon	Area 2: Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9 Area 3: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25 Area 8: Oct. 13-14, 20-21, 27-28, Nov. 3-4, 10-11, 17-25
Washington	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Webster	Nov. 3-4, 10-11, 17-25, Dec. 1-2, 8-9
West Baton Rouge	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
West Carroll	Closed
West Feliciana	Nov. 17-18, 23-25, Dec. 1-2, 8-9, 15-16
Winn	Nov. 3-4, 10-11, 17-18, 23-25, Dec. 1-2, 8-9

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves

Archery	Modern Firearm	Either Sex
Oct. 1-Jan. 31 (Either Sex)	Nov. 1-Jan. 31	Nov. 1-7 Dec. 1-7 Jan. 1-7

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001).

Dr. H. Jerry Stone
Chairman

0107#027

RULE

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

Waterfowl Hunting Zones (LAC 76:V.319)

The Wildlife and Fisheries Commission has established rules and regulations governing waterfowl hunting zones.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§319. Waterfowl Hunting Zones

The state shall be divided into East and West Waterfowl Hunting Zones by the following boundary: Beginning at the Arkansas-Louisiana border on La. 3; thence south along La. 3 to Bossier City; thence east along I-20 to Minden; thence south along La. 7 to Ringgold; thence east along La. 4 to Jonesboro; thence south along U.S. 167 to Lafayette; thence southeast along U.S. 90 to the Mississippi state line.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:1062 (July 2001).

Dr. H. Jerry Stone
Chairman

0107#026

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Horticulture Commission

Revised Standards of Practice
(LAC 7:XXIX.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, hereby proposes to amend regulations allowing retail florists to rent ornamental plants for special events such as weddings, conventions, trade shows, etc. This Rule is enabled by R.S. 3:3808 and 3:3801.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§117. Required Standards of Practice

A. General Requirements for Retail Florist

1. - 4. ...

5. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

B. - I.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185, amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:

Family Impact Statement

The proposed amendments to rules LAC XXIX. Chapter 1 regarding the Horticulture Commission 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 the proposed rules through, August 27, 2001, to Craig

Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., 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: Revised Standards of Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase in costs or savings to state or local governmental units. This rule change will allow retail florists to rent ornamental plants for special events such as weddings, conventions, trade shows, etc.

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 costs or economic benefits to the retail florist industry. This rule is putting into place what is already in effect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors.

Skip Rhorer
Assistant Commissioner
0107#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Education Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators Curriculum Standards (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 L.R. 1:483 (November 1975). The proposed changes require students who pass to the 9th or 10th grade without having passed either the mathematics or English language arts component of the 8th grade LEAP 21 to pass a high school remedial course in the subject area that they failed before taking a course for Carnegie credit in that subject area. These changes reflect changes made to the High Stakes Testing policy.

**Title 28
EDUCATION**

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

' 901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended 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:

2.105.04 Four units of English shall be required for graduation. They shall be English I, II, and III, in consecutive order, and English IV or Business English. Students who score at the *Unsatisfactory* achievement level on the English Language Arts component of Grade 8 LEAP 21 shall pass a high school remedial course in that content area before enrolling any English course in the Secondary Program of Studies for English.

For the 2001-2002 school year, Reading I or Reading II may serve as the required high school remediation course for students promoted to 9th or 10th grade without passing the English Language Arts component of Grade 8 LEAP 21.

The English course offerings shall be as follows:

Course Title	Unit
English I, II, III, IV	1 each
Business English	1
Reading I	1
Reading II	1
English as a Second Language (ESL) I, II, III, IV	1 each

2.105.17 Effective for 1997-98, incoming freshmen and thereafter, three units of mathematics shall be required for graduation. They shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

Students who score at the *Unsatisfactory* achievement level on the mathematics component of Grade 8 LEAP 21 shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

For the 2001-2002 school year, Introductory Algebra/Geometry may serve as the required high school remediation course for students promoted to 9th or 10th grade without passing the mathematics component of LEAP 21. When used as a remediation course, credit for this course may not be used to meet the mathematics graduation requirements.

The mathematics course offerings shall be as follows:

Course Title	Unit
Advanced Mathematics	1 each
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra II	1
Applied Mathematics I	1
Applied Mathematics II	1
Applied Mathematics III	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Introductory Algebra/Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1

Financial Mathematics may be taught by teachers certified in Business Education.

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

The English language arts, writing, and mathematics components of the Graduation Exit Examination (GEE 21) shall first be administered to students in the 10th grade.

The science and social studies components of the graduation test shall first be administered to students in the 11th grade.

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

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

Effective for the 2001-2002 school year and thereafter, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an 8th grade student who has scored at the *Unsatisfactory* achievement level on either the English Language Arts and/or the Mathematics component of the 8th grade LEAP 21 provided the student:

- successfully completed specially designed elective(s) for LEAP 21 remediation;
- scored at or above the *Basic* achievement level on those component(s) of the 8th grade LEAP 21 for which the student previously scored at the *Unsatisfactory* achievement level.

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

- Earning one elective credit through remediation for 8th grade LEAP 21 and one elective credit through GEE 21 remediation, or
- Earning two elective credits through GEE 21 remediation.

Interested persons may submit written comments until 4:30 p.m., September 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741C Louisiana Handbook For
School Administrators C Curriculum Standards**

- 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 Superintendent
Management and Finance
0107#004

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Education
Board of Elementary and Secondary Education**

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's accountability system is an evolving system with different components. The proposed change more clearly explains and refines existing policy as

follows: 1) School Performance Scores for K-8 schools for Cycle 1; 2) Clarification of the calculation of the NRT Index; 3) The addition of the word "Adjusted" to the Achievement Index for grades 9-12; 4) the change in the Standard Scores for the 9th grade NRT; 5) the change in the number of bonus points for Option II students; 6) the change in the calculation of the Adjusted Achievement Index; 7) the addition of a new growth label and adjustment to the "School in Decline" label; 8) clarification of the transfer/school choice policy; 9) clarification concerning student participation in only one testing program; 10) clarification of special education students participating in out-of-level and alternate assessments.

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

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

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

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

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

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

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

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

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

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

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

- a score for regular education students, including gifted, talented, 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 accountability index. A student may earn a maximum of 200 bonus points for his/her school. (No bonus points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)

Transition Years [K-8]

To accommodate the phase-in of the Social Studies and Science components of the CRT for Elementary and Secondary Accountability Cycles, the State Department of Education shall use the following LEAP Test components when calculating the School Performance Scores (SPS) for K-8:

Timelines/School Years			LEAP-CRT Index Components									
Cycle	Baseline SPS Data	Growth SPS Data	Grade									
			4				8					
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies		
1	1998-1999	2000-2001	✓	✓					✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓			✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓			✓	✓	✓	✓

Norm-Referenced Tests (NRT) Index Calculations [K-8]

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

NRT Goals and Equivalent Standard Scores

Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level*

Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3rd grade = $(4.167 * SS) - 679.2$ SS = $(\text{Index 3rd grade} + 679.2) / 4.167$
Grade 5:	Index 5th grade = $(2.941 * SS) - 544.1$ SS = $(\text{Index 5th grade} + 544.1) / 2.941$
Grade 6:	Index 6th grade = $(2.500 * SS) - 477.5$ SS = $(\text{Index 6th grade} + 477.5) / 2.500$
Grade 7:	Index 7th grade = $(2.174 * SS) - 428.3$ SS = $(\text{Index 7th grade} + 428.3) / 2.174$

Formula for Calculating a School's NRT Index [K-8]

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

Attendance Index Calculations [K-8]

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

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%

Attendance Index Formula

Grades K-8
 Indicator (ATT K-8) = (16.667 * ATT) - 1483.4

Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.

Lowest Attendance Index Score

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

Dropout Index Calculations

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

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

The national definition of 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.

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

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

Transition Years [9-12]
 To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests and the graduation requirement, the Department shall use the following indicators:

Timelines/School Years		Indicators Included					
Cycle	Baseline SPS Data	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.)	✓	✓	✓	✓*	✓*
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	✓	✓	✓	✓*	✓*

*Indicates use of prior year data for these indexes.

Transition Years [Combination Schools]

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

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

Growth SPS Data	CRT Index Components
2001	All CRT (without 11th grade) (Cycle 1)
2002	All CRT (without 11th grade) (Cycle 1) All CRT (Cycle 2)
2003	All CRT (without 11th grade) (Cycle 1) All CRT (Cycle 2)

Formula for Calculating an SPS - Accountability Cycle 1 [9-12]

During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:

$$SPS = (.60 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Adjusted Achievement Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

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

The following is an example of how this calculation shall be made:

$$[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0$$

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

Formula for Calculating an SPS – Accountability Cycle 2 [9-12]

During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:

$$\text{SPS} = (.30 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{Grade 11 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

In this example:

$$[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2$$

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

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

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

NRT Goals and Equivalent Standard Scores for Grade 9

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

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

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

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

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

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

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

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive bonus points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 bonus points in his/her school's accountability index. Beginning cycle 2 (2001-2002), a student may earn a maximum of 50 bonus points for his/her school.

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following programs:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- Iowa Out-of-Level or,
- Louisiana Alternate Assessment

Criterion-Referenced Tests (CRT) Index Calculations [9-12]

A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

- Sum the number of points earned by all students. For the NRT, there shall be one score for each student: the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
- Divide by the total number of students eligible to be tested times the number of content area tests. This calculation provides the raw achievement index for the grade.
- Multiply the raw index by the product of the non-dropout rates from the previous year, for that grade and for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index.
- Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

Example 1 - Grade 9:

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

Example 2 - Grade 10:

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

Attendance Index Calculations for Grades 9-12

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

Attendance Goals

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

Attendance Index Formula for Grades 9-12

If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the: ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

$$\text{Indicator (ATT 9-12)} = (16.667 * \text{ATT}) - 1450.0$$

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be: $(16.667 * 94.3) - 1450.0 = 121.7$.

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

Dropout Index Calculations for Grades 9-12

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

Dropout Goals

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

Dropout Index Formula for Grades 9-12

$$\text{Dropout Index} = 187.5 - (12.5 \times \text{dropout rate})$$

Example:

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

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

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

Data Collection

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

Growth Targets

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

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

Growth Targets

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

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

where

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

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

SPS = School Performance Score

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

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

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

Growth Targets for New or Reconfigured Schools

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

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

Growth Targets for Reconstituted Schools

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

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

Growth Labels

2.006.06 A school shall receive a label based on its success in attaining its Growth Target.

Growth Labels

A school exceeding its Growth Target by 5 points or more shall receive a label of Exemplary Academic Growth.

A school exceeding its Growth Target by fewer than 5 points shall receive a label of Recognized Academic Growth.

A school improving (at least 0.1 points), but not meeting its Growth Target, shall receive a label of Minimal Academic Growth.

A school showing a change in its SPS of 0 to -5.0 points, shall receive a label of No Growth

A school with a declining SPS (more than -5.0 points) shall receive a label of School in Decline.

When a school's SPS is greater than or equal to the State's goal, "Minimal Academic Growth," "No Growth" and "School in Decline" labels shall no longer apply.

Performance Labels

2.006.07 A Performance Label shall be given to a school that qualifies, in addition to the Growth Label.

A school with a SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Actions.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 9-12 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

A school with a SPS of 30.1 - state average shall be labeled Academically Below the State Average.

A school with a SPS of state average - 99.9 shall be labeled Academically Above the State Average.

*The state average is recalculated every growth cycle.

**A school with a SPS of 100.0 - 124.9 shall be labeled a *School of Academic Achievement*.

**A school with a SPS of 125.0 - 149.9 shall be labeled a

School of Academic Distinction.

**A school with a SPS of 150.0 or above shall be labeled a *School of Academic Excellence.*

**A school with these labels shall no longer be subject to Corrective Actions and shall not receive “negative” growth labels: i.e., School in Decline, No Growth, and Minimal Academic Growth. This school shall continue to meet or exceed Growth Targets to obtain “positive” growth labels, recognition, and possible rewards.

Transfer Policy

2.006.11 Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Corrective Actions Level II or any other school begins Corrective Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools or any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

An LEA must develop a policy for student transfers (School Choice Policy) for Academically Unacceptable schools in Corrective Actions II and III. An LEA shall state its capacity for offering student transfers. The SBESE shall approve or disapprove an LEA’s School Choice Policy.

An LEA shall declare Lack of Capacity when all of the attendance zones under its jurisdiction are unable to provide school choice to eligible students (i.e., desegregation order).

An LEA shall declare Limited Capacity when some students in some or all of the attendance zones under its jurisdiction may be provided school choice in an attendance zone (i.e., limited seating capacity in receiving schools).

An LEA declaring Lack or Limited Capacity shall request a waiver from the SBESE and shall submit the following with its waiver request:

- a description of the general transfer policy or desegregation order (See State’s Guidance on LEAs’ Development of School Choice Policies for Public Schools in Louisiana.) Transfer policies must include:
 - 1) a method for determining transfer capacity or evidence of lack of capacity to transfer;
 - 2) transfer options for as many eligible students as possible in the Academically Unacceptable schools in Corrective Actions II or III to other Academically Acceptable schools;
 - 3) equal educational opportunities for all students eligible to transfer, including students with disabilities and Limited English Proficiency (LEP) and in compliance with all civil rights laws pertaining to eligible students;
 - 4) a method for selecting transfer students from the entire eligible student population in cases of Limited Capacity (i.e., lottery);
 - 5) a method for communicating to parents the option and wherewithal of School Choice;
 - 6) a method for maintaining a file for all communication involving all interested parties in School Choice;
 - 7) a method for providing transportation for transfer students; and
 - 8) A method for transferring student records, including assessment results and their interpretations.

If the SBESE determines that an LEA has demonstrated sufficient evidence of lack of or limited capacity to transfer, then the requesting LEA must submit the following information for the SBESE’s approval:

- a description of the School/District Plan for those schools having to offer School Choice that addresses the following:
 - 1) Educator Quality
 - Principal Certification/Qualifications
 - Principal Leadership and Effectiveness
 - Teacher Qualifications/Certification
 - 2) Professional Development
- To address teacher professional learning based on student data
- To address uncertified/inexperienced teacher professional learning if certified/experienced teachers are unavailable for placement in the school
 - 3) Alignment of Curriculum, Instruction and Assessment with State Content Standards;
 - 4) Teacher/Pupil Ratio;
 - 5) Early Intervention/Remediation Programs;
 - 6) Time on Task/Extended Learning Opportunities;
 - 7) Parental Involvement; and
 - 8) Discipline/Safety/Health Issues;
 - 9) Renovation/Capital Improvement.

If the SBESE approves an LEA's School Choice Policy, the LEA must comply with the following conditions:

- 1) The LEA must submit a quarterly status report to the SBESE regarding the implementation and progress of the district's School Choice policy.
- 2) The LEA's School Choice Policy will be reviewed, re-evaluated, and subject to amendment or revision annually, all at the discretion of the SBESE.
- 3) The LEA must formally approve (and provide to the SBESE written proof thereof) the following:
 - a. the implementation of the School Choice Policy submitted to the SBESE; and
 - b. the assurance that as a part of its approval of the School Choice Policy the Superintendent (or interim Superintendent), or his/her designee, shall be the sole decision maker with regard to the assignment, removal, or replacement of all personnel involved, directly or indirectly, in the administration and implementation of the School Choice policy including personnel in the central office and relevant schools covered by the plan.
- 4) In the event that the LEA uses preliminary data supplied by the LDE or testing contractor and determines in good faith that a school is not required by state or federal law to provide choice to students, but final School Performance Scores (as determined by the LDE) would require the school provide choice, the LEA shall provide choice (in accordance with the provisions of the approved SPS are determined by the LDE.

If the SBESE fails to approve an LEA's School Choice Plan, the implicated schools will lose their School Approval status.

Inclusion of Students with Disabilities

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

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

A student participating in out-of-level testing must test three or more grade levels below in either English/Language Arts or Mathematics. If a student does not test three or more grade levels below in at least one of these subject areas, he/she will receive a "0" for growth.

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

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

The scores of Special Education students participating in out-of-level testing shall be excluded from the School Performance Score for the school year 1999-2000.

Appeals Process for Exceeding the Established Caps for Out-of-Level Alternate Assessment of Students with Disabilities

- I. School districts that either
 - A) exceed a total of 4 percent but less than 5 percent of the total district population at any grade level participating in out-of-level testing and alternate assessment,
AND/OR
 - B) exceed a total of 1.5 percent but less than 2 percent of the total district population at any grade level participating in alternate assessment
must submit the following to the Department of Education (DOE) for review and approval:
 - 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
 - increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in alternate assessment to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.
- II. School districts that either
 - C) exceed a total of 5 percent or more of the total district population at any grade level participating in out-of-level testing and alternate assessment,
AND/OR
 - D) exceed a total of 2 percent of the total district population at any grade level participating in alternate assessment
must submit the following to the Department of Education for review and approval:
 - 3) a justification documenting the reasons for exceeding the cap(s), and
 - 4) a corrective action plan to
 - increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in alternate assessment to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

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

- III. The DOE will report to the SBESE on each appeal.

Interested persons may submit written comments until 4:30 p.m., September 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741C Louisiana Handbook For
School AdministratorsC Policy for Louisiana’s Public
Education Accountability System**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs to state governmental units. The proposed changes more clearly explain and refine the existing policy as it pertains to School Performance Scores for K-8 schools for Cycle 1, clarification of the calculation of the NRT Index, the addition of the word "Adjusted" to the Achievement Index for grades 9-12, the change in the Standard Scores for the 9th grade NRT, the change in the number of bonus points for Option II students, the change in the calculation of the Adjusted Achievement Index, the addition of a new growth label and adjustment to the "School in Decline" label, clarification of the transfer/school choice policy, clarification concerning student participation in only one testing program, and clarification of special education students participating in out-of-level and alternate assessments.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Marlyn Langely
Deputy Superintendent
Management and Finance
0107#005

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Education
Board of Elementary and Secondary Education**

**Bulletin 741C Louisiana Handbook for School
AdministratorsC Written Policies Required of
Local School Systems (LAC 28:I.901)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in L.R. 1:483 (November 1975). The proposed rule amends an existing policy in Bulletin 741 regarding required written policies of local school districts. The rule would add a requirement that LEAs have a systemwide policy regarding participation in graduation ceremonies.

Title 28

EDUCATION

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

' 901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 27:

Instructional Program Policies

1.010.01 Each school system shall have policies and implementing procedures stated in written form for instructional programs, graduation ceremonies, student activity programs, and student services.

Interested persons may submit written comments until 4:30 p.m., September 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741C Louisiana Handbook For
School AdministratorsC Written Policies Required of
Local School Systems**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be an expenditure of approximately \$75 of State General Funds for printing and dissemination of the rule change to the Local Education Agencies (LEAs). It is anticipated that the costs of publication to the LEAs will be nominal, as the new rule will likely be included within existing, regularly printed materials.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no projected impact on revenue collections at the state or local level.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There is no projected costs or economic benefit to directly affected persons. The policy merely requires the LEA to have a written policy regarding graduation ceremonies.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no projected impact on competition or employment as a result of this rule.

Marlyn Langely
Deputy Superintendent
Management & Finance
0107#003

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS)C Definitions and Exceptional Circumstances
(LAC 28:IV.301 and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

The full text of these proposed rules may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

The proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., August 20, 2001, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)C Definitions and Exceptional Circumstances

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No change in cost to the program is anticipated to result from these revisions.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from these rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These rule changes clarify the definitions of the first-time freshmen and full-time student and exceptional circumstances warranting exception to initial and continuous enrollment requirements. The clarifications are consistent with the agency's interpretation and enforcement of the TOPS rules since the inception of the program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0107#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Emission Control of Organic Compounds
Calcasieu Parish Area
(LAC 33:III.Chapter 21)(AQ219)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.2103, 2104, 2109, 2115, 2122, 2143, 2147, 2149, 2151, & 2153 (Log #AQ219).

Calcasieu experienced six ozone exceedance days during the years 1998, 1999, and 2000. Four or more exceedances during any consecutive 3-year period constitute a violation of the ozone National Ambient Air Quality Standard (NAAQS). In accordance with activated contingency measures established in the approved air quality Maintenance Plan for Calcasieu Parish, a control strategy must be developed and appropriate control measures implemented in an effort to maintain Calcasieu's current attainment designation and to protect air quality in the area. This proposed rule revision affects the four parishes of Calcasieu, Jefferson Davis, Beauregard, and Cameron by lowering applicability thresholds of four sections in LAC 33:III. Chapter 21 that regulate fugitive emissions, crude oil and condensate, waste gas disposal, and graphic arts facilities. Additionally, other sections in Chapter 21 that regulate internal/external floating roof tanks, oil/water separation, SOCFI (Synthetic Organic Chemical Manufacturing Industry) reactor processes and distillation operations, batch processing, cleanup solvent processing, and industrial wastewater are revised to include the same stringency that currently exists for affected facilities in the Baton Rouge nonattainment area and Calcasieu Parish. The proposed revision to the fugitive rule for the four parishes lowers the applicability threshold from 100 tons per year (TPY) to 50 TPY and increases the frequency of monitoring of the affected facilities. The basis and rationale for this proposed rule are to continue achieving compliance with the NAAQS for ozone in Calcasieu and adjoining parishes to protect the air quality of the state of Louisiana.

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

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

* * *

[See Prior Text in A - B]

C. Internal Floating Roof. An internal floating roof consists of a pontoon type roof, double deck type roof, or internal floating cover which will rest or float on the surface of the liquid contents and is equipped with a closure seal to close the space between the roof edge and tank wall. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place. If the organic compounds have a vapor pressure of 11.0 psia or greater under actual storage conditions, the requirements of Subsection F of this Section shall supersede the requirements of this Subsection. In the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge, the following additional requirements apply:

* * *

[See Prior Text in C.1 - 3]

D. External Floating Roof. An external floating roof consists of a pontoon type roof, double deck type roof, or external floating cover which will rest or float on the surface of the liquid contents and is equipped with a primary closure seal to close the space between the roof edge and tank wall and a continuous secondary seal (a rim mounted secondary) extending from the floating roof to the tank wall. In the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge, the primary closure seal shall consist of a liquid mounted seal or a mechanical shoe seal, as defined in Subsection C.1.a and b of this Section. Installation of the primary and secondary seals in these parishes shall be within the same time requirements as stipulated in Subsection C.3 of this Section.

* * *

[See Prior Text in D.1 - 2.e]

3. Requirements for Covering Openings. All openings in the external floating roof, except for automatic bleeder vents, rim space vent, and leg sleeves, are to provide a projection below the liquid surface. Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof is to be equipped with a cover, seal, or lid that is to be maintained in a closed position at all times (i.e., no visible gap) except when the device is in actual use. Automatic bleeder vents must be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents must be set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Any emergency roof drain must be equipped with a slotted membrane fabric cover or equivalent cover that covers at least 90 percent of the opening. In the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge, all covers, seals, lids, automatic bleeder vents, and rim space vents are to be gasketed.

4. Requirements for Guide Poles and Stilling Well Systems. Emissions from guide pole systems must be controlled for external floating roof storage tanks with a capacity greater than 40,000 gallons (approximately 151 m³) and which store a liquid having a total vapor pressure of 1.5 psia or greater. The requirements of this Paragraph shall only apply in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge.

* * *

[See Prior Text in D.4.a - b]

c. For any tank located in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, installation of controls required by Subsection D.4 of this Section shall be required by November 15, 1996. Requests for extension of the November 15, 1996, compliance date will be considered on a case-by-case basis for situations that require the tank to be removed from service to install the controls and must be approved by the administrative authority.* For any tank located in the parishes of Beauregard, Cameron, or Jefferson Davis, installation of controls required by Subsection D.4 of this Section shall be required by January 1, 2003. Requests for extension of the January 1, 2003, compliance date will be considered on a case-by-case basis for situations that require the tank to be removed from service to install the controls and must be approved by the administrative authority.*

* * *

[See Prior Text in D.4.d - F]

G Exemptions. The provisions of this Section (e.g., LAC 33:III.2103) do not apply to:

1. existing and new storage tanks, located in any parish other than the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge, used for crude oil or condensate and having a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards;

2. tanks 420,000 gallons (1,589,900 liters) or greater, located in any parish other than the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge, used to store produced crude oil or condensate prior to lease custody transfer unless such tanks are subject to New Source Performance Standards;

3. existing and new storage tanks in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge that are used for crude oil or condensate prior to lease custody transfer and that have a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards;

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:27 (January 1990), LR 17:360 (April 1991), LR 18:1121 (October 1992), LR

20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 27:

§2104. Crude Oil and Condensate

A. Applicability. This Section applies to any oil and gas production facility (SIC Code 1311), natural gas processing plant (SIC Code 1321), or natural gas transmission facility (SIC Code 4922) that has a potential to emit more than 50 Tons Per Year (TPY) of flash gas to the atmosphere in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, and West Baton Rouge or more than 100 TPY of flash gas to the atmosphere in any other parish.

* * *

[See Prior Text in B - C.1]

2. For facilities in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent or reduced to a potential to emit of less than 50 TPY.

3. For facilities in parishes other than Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, and West Baton Rouge with a potential to emit less than 250 tons per year of flash gas, aggregated facility flash gas emissions shall be reduced by a minimum of 95 percent, or reduced to a potential to emit of less than 100 TPY.

* * *

[See Prior Text in D - D.3]

E. Compliance Schedule. For equipment located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, compliance shall be achieved as soon as practicable, but no later than September 1, 1998. For equipment located in the parishes of Beauregard, Calcasieu, Cameron, and Jefferson Davis, with a potential to emit less than 100 TPY, compliance shall be achieved as soon as practicable, but no later than September 1, 2002. For all other facilities compliance shall be achieved as soon as practicable, but no later than May 1, 1999.

* * *

[See Prior Text in F - G.5]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1497 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§2109. Oil/Water—Separation

* * *

[See Prior Text in A - B.3]

4. Except for the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge, any single- or multiple-compartment volatile organic compound water separator emitting 100 tons per year or less of regulated hydrocarbons (uncontrolled) is exempt from the provisions of LAC 33:III.2109.A.

* * *

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:117 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:361 (April 1991), LR 18:1121 (October 1992), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§2115. Waste Gas Disposal

Any waste gas stream containing volatile organic compounds (VOC) from any emission source shall be controlled by one or more of the applicable methods set forth in Subsections A-G of this Section. This Section shall apply to all waste gas streams located at facilities that have the potential to emit 50 TPY or more of VOC in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge, or 100 TPY or more of VOC in any other parish. This Section does not apply to waste gas streams that must comply with a control requirement, meet an exemption, or are below an applicability threshold specified in another section of this Chapter. This Section does not apply to waste gas streams that are required by another federal or state regulation to implement controls that reduce VOC to a more stringent standard than would be required by this Section.

* * *

[See Prior Text in A - H.1]

a. it can be demonstrated that the waste gas stream is not a part of a facility that emits, or has the potential to emit, 50 TPY or more of VOC in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge or 100 TPY or more of VOC in any other parish;

* * *

[See Prior Text in H.1.b - c]

d. it is a waste gas stream with a concentration of VOC less than 0.44 psia true partial pressure (30,000 ppm), except for the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, St. James, and West Baton Rouge in which the concentration of VOC in the waste gas stream must be less than 0.044 psia true partial pressure (3,000 ppm).

* * *

[See Prior Text in H.2 - I.5]

J. Compliance. All facilities affected by LAC 33:III.2115 shall be in compliance as soon as practicable but in no event later than [late to be inserted one year from promulgation].

* * *

[See Prior Text in J.1 - M.Waste Gas Stream]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:960 (November 1990), LR 17:654 (July 1991), LR

18:1122 (October 1992), LR 19:317 (March 1993), IR 22:1212 (December 1996), LR 24:21 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§2122. Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes

A. Applicability

* * *

[See Prior Text in A.1]

2. This Section is applicable to sources in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge.

3. The requirements of this Section shall be effective for sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge starting January 1, 1996.

4. The requirements of this Section shall be effective for sources located in the parishes of Beauregard, Calcasieu, Cameron, and Jefferson Davis starting January 1, 2003.

5. Where the provisions of this Section are effective, process units to which this Section applies that are also subject to the provisions of LAC 33:III.2121 will not be required to comply with the provisions of LAC 33:III.2121.

* * *

[See Prior Text in A.6- G.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 27:

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

A. Control Requirements. No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility having a potential to emit 50 TPY or more of VOC in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge, or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled by one of the methods in Subsection A.1-5 of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

* * *

[See Prior Text in A.1 - 5]

B. Applicability Exemption. A rotogravure or flexographic printing facility that has the potential to emit at full production (8760 hours per year basis) a combined weight of VOC of less than 50 TPY (in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge) or 100 TPY (in any other parish), calculated from historical records of actual consumption of ink, is exempt from the provisions of

Subsections A and C of this Section and need only comply with Subsection D of this Section.

* * *

[See Prior Text in C - D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 27:

Subchapter J. Limiting Volatile Organic Compounds (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)

§2147. Limiting VOC Emissions from SOCMI Reactor Processes and Distillation Operations

A. Applicability

1. The provisions of this Subchapter apply to any vent stream discharging to the atmosphere and originating from a process unit in which a reactor process or distillation operation is located. This Subchapter shall apply to all vents located at facilities that emit, or have the potential to emit, 50 TPY or more of VOC, plantwide, in the affected parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. A decision tree is provided (Figure 1) to facilitate determination of applicability to this Subchapter on a per vent basis. The total resource effectiveness (TRE) index value may be applied on an individual process vent stream basis for a given process unit. Sources in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge parishes shall attain compliance with these regulations no later than April 20, 1997. Sources in Beauregard, Cameron, and Jefferson Davis parishes shall attain compliance no later than [date to be inserted two years from promulgation]. Any emission source that is subject to these regulations and to the Waste Gas Disposal Rule (LAC 33:III.2115) shall comply with this rule only. These regulations shall apply only to Standard Industrial Major Code 28.

* * *

[See Prior Text in A.2 - F.4.Figure 1]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:380 (April 1995), amended LR 22:1212 (December 1996), LR 23:1508 (November 1997), LR 23:1510 (November 1997), LR 23:1679 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

Subchapter K. Limiting Volatile Organic Compounds (VOC) Emissions from Batch Processing

§2149. Limiting VOC Emissions from Batch Processing

A. Applicability

1. The provisions of this Subchapter apply to process vents associated with batch processing operations. This Subchapter shall apply to the stationary sources that emit, or have the potential to emit, 50 TPY or more of VOC in the affected parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge. Once an operation is considered to be covered by this Subchapter, it shall be so considered ad infinitum. The scope of affected industries is limited to those industries in the following standard industrial classification (SIC) codes: 2821, 2833, 2834, 2861, 2865, 2869, 2879. Sources in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes shall attain compliance with these regulations no later than April 20, 1997. Sources in Beauregard, Cameron, and Jefferson Davis parishes shall attain compliance no later than [date to be inserted two years from promulgation]. Any emission source that is subject to these regulations and to the Waste Gas Disposal Rule (LAC 33:III.2115) shall comply with this rule only.

* * *

[See Prior Text in A.2 - G.2.c.v]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:387 (April 1995), amended LR 22:1212 (December 1996), LR 23:1507 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

Subchapter L. Limiting Volatile Organic Compounds (VOC) Emissions from Cleanup Solvent Processing

§2151. Limiting VOC Emissions from Cleanup Solvent Processing

A. Applicability. The provisions of this Subchapter apply to stationary sources that emit, or have the potential to emit, 50 TPY or more of VOC and conduct one or more of the affected cleaning operations in the parishes of Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge. Once a source is subject to this Subchapter, it shall be so ad infinitum. Affected cleaning operations are ones that use solvents in the following operations:

* * *

[See Prior Text in A.1 - C.2]

3. submit plans to the administrative authority, to reduce VOC emissions from solvent usage. Sources in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes shall submit such plans no later than April 20, 1996. Sources in Beauregard, Cameron, and Jefferson Davis parishes shall submit such plans no later than [date to be inserted one year from promulgation]. Any increases in VOC emissions due to the substitution of a nonhazardous air pollutant for a hazardous one shall require approval of the administrative authority.* To satisfy all requirements of this Subsection, the owner or operator of an affected facility may alternatively report the controls and/or work practices deemed to be MACT that have been adopted to reduce VOC emissions

from solvent cleanup operations. These plans or submissions become enforceable upon approval.

* * *

[See Prior Text in D - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:391 (April 1995), amended LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 27:

Subchapter M. Limiting Volatile Organic Compounds (VOC) Emissions From Industrial Wastewater

§2153. Limiting VOC Emissions From Industrial Wastewater

* * *

[See Prior Text in A]

Affected Source Category—any facilities of the following source categories located in Ascension, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberville, Jefferson Davis, Livingston, Pointe Coupee, and West Baton Rouge parishes and having the potential to emit 50 TPY or more of VOC:

* * *

[See Prior Text in A. Affected Source Category.a - H.5]

I. Parishes and Compliance Schedules

1. For the affected facilities in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Point Coupee, and West Baton Rouge parishes, any person who is the owner or operator of an affected source category within a plant shall be in compliance with these regulations no later than November 15, 1996. If an additional affected VOC wastewater stream is generated as a result of a process change, the wastewater shall be in compliance with this Section upon initial startup or by November 15, 1998, whichever is later, unless the owner or operator demonstrates to the administrative authority* that achieving compliance will take longer. If this demonstration is satisfactory to the administrative authority,* compliance shall be achieved as expeditiously as practicable, but in no event later than three years after the process change. An existing wastewater stream that becomes an affected VOC wastewater stream due to a process change must be in compliance with this Section as expeditiously as practicable, but in no event later than three years after the process change.

2. For the affected facilities in Beauregard, Cameron, and Jefferson Davis parishes, any person who is the owner or operator of an affected source category within a plant shall be in compliance with these regulations no later than November 15, 2002. If an additional affected VOC wastewater stream is generated as a result of a process change, the wastewater shall be in compliance with this Section upon initial startup, or by November 15, 2004, whichever is later, unless the owner or operator demonstrates to the administrative authority* that achieving compliance will take longer. If this demonstration is satisfactory to the administrative authority,* compliance shall be achieved as expeditiously as practicable, but in no event later than three years after the process change. An existing wastewater stream that becomes an affected VOC wastewater stream due to a process change must be in compliance with this

Section as expeditiously as practicable, but in no event later than three years after the process change.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on August 28, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ219. Such comments must be received no later than September 4, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ219.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/reg/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Emission Control of Organic Compounds C Calcasieu Parish Area

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule revision affects four parishes (Calcasieu, Jefferson Davis, Beauregard, and Cameron) by

lowering applicability thresholds of four sections in Chapter 21 that regulate fugitive emissions, crude oil and condensate, waste gas disposal, and graphic arts facilities. Additionally, other sections in Chapter 21 that regulate internal/external floating roof tanks, oil/water separation, SOCMI (Synthetic Organic Chemical Manufacturing Industry) reactor processes and distillation operations, batch processing, cleanup solvent processing, and industrial wastewater are revised to include the same stringency that currently exists for affected facilities in the Baton Rouge nonattainment area and Calcasieu Parish.

The proposed revision to the fugitive rule for the four parishes lowers the applicability threshold from 100 tons per year (TPY) to 50 TPY and increases the frequency of monitoring of the affected facilities. The exact effect this rule will have on a facility will vary. Many of these facilities are already regulated by the federal SOCMI regulations or by federal or state MACT (Maximum Achievable Control Technology) regulations so the proposed rule will have no effect at all. Those facilities that would be affected by the proposed rule are already required to perform regular monitoring. So the primary effect is to increase the frequency of the required monitoring, which will increase costs somewhat. Most of the increased cost comes from conducting monitoring inspections with the smaller part of the increase a result of implementing corrective measures when deficiencies are discovered.

The applicability threshold of the rule regulating crude oil and condensate facilities, waste gas venting, and graphic arts printing facilities will be lowered from 100 TPY to 50 TPY for the four parishes.

The regulation of internal and external floating roof tanks in Beauregard, Jefferson Davis, and Cameron parishes will be revised to include the more stringent requirements existing for the Baton Rouge nonattainment area and Calcasieu Parish.

Oil/water separation, SOCMI reactor processes and distillation operations, batch processing, cleanup solvent processing, and industrial wastewater are currently not regulated in Beauregard, Cameron, and Jefferson Davis parishes. This proposed rule will extend to these parishes the same regulation of these operations that currently exist in the Baton Rouge nonattainment area and Calcasieu Parish.

The exact compliance cost associated with implementation of this proposed rule is difficult to assess since many regulated facilities are subject to other more stringent federal or state rules. Failure to implement emission controls in accordance with the EPA approved maintenance plan for air quality will potentially result in the redesignation of the area to nonattainment and the requirement for more stringent and costly controls.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

James H. Brent, Ph.D.
Assistant Secretary
0107#046

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Emission Reduction Credits Banking (LAC 33:III.Chapter 6)(AQ211)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality regulations, LAC 33:III.Chapter 6 (Log #AQ211).

This proposed rule revises LAC 33:III.Chapter 6, adopted in August 1994 and amended in December 1998 and September 1999. This revision involves four actions. First, language requiring that emission reduction credits (ERC) must be "surplus when used" will be added. This revision is required in order to comply with EPA's interpretation of the Clean Air Act and current policy/guidance regarding Nonattainment New Source Review (NNSR) procedures. Second, all references to the ERC bank being a contingency measure for Louisiana's 15 percent VOC Reasonable Further Progress (RFP) Plan will be removed. Next, stipulations that mandate emissions reductions be banked as ERCs in order to use them to "net out" in a nonattainment area will be eliminated. Finally, the mobile emission reduction credits (MERCs) provisions under LAC 33:III.611 will be deleted, since this program was never implemented. The basis and rationale for this proposed rule are to comply with federal guidelines so that the regulations do not lead to DEQ actions that do not conform with EPA's "surplus when used" policy.

Any permits previously issued in accordance with state and EPA-approved rules in effect at the time of issuance remain valid. Thus, the department has no intention to reopen any permits for cause due to changes in applied policies.

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

Title 33

ENVIRONMENTAL QUALITY

PART III. Air

Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits Banking

§601. Purpose

A. This rule establishes the means of enabling sources to identify and preserve or acquire emission reductions for New Source Review (NSR) offsets. The pollutants to which this rule applies are nitrogen oxides (NO_x) and volatile organic compounds (VOC).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§603. Applicability

A. The following sources must participate in the emissions banking program in order to utilize emission reductions as offsets: sources located in EPA-designated ozone nonattainment areas, and sources located in EPA-designated ozone attainment areas potentially subject to offset requirements under LAC 33:III.Chapter 5. Other sources located in EPA-designated ozone attainment areas may not participate in the emissions banking program. Any stationary point source at an affected facility is eligible to participate in the emissions banking program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 27:

§605. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows:

Actual Emissions—the actual rate of emissions of an air pollutant from a source operation, equipment, or control apparatus. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the baseline period. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data is not available;

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests, waste disposal records, emission reports such as emission inventory reports, SARA Title III, or MACT compliance certifications, and other methods specifically approved by the department.

Adjusted Total Point-Source Emissions Inventory—the aggregate emissions inventory from each of the modeled parishes, which includes 1997 actual emissions from point sources; allowable emissions from proposed power generating plants; banked ERC and pending ERC applications where the emission reduction occurred between January 1, 1990, and December 31, 1997; and adjustments for growth.

Allowable Emissions—the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits that restrict the operating rate, hours of operations, or both) and the most stringent of the following:

a. an applicable standard set forth in 40 CFR part 60, 61, or 63;

b. any applicable state implementation plan (SIP) emissions limitation, including those with a future compliance date;

c. applicable emission limitations specified as a federally enforceable permit condition, including best

available control technology (BACT) and lowest achievable emission rate (LAER) requirements, including those with a future compliance date; or

d. applicable acid rain SO₂ and NO_x control requirements as defined under Title IV of the 1990 Clean Air Act Amendments and subsequent regulations.

Bank Cthe repository for ERCs and includes the ERC banking database.

Bankable Emission Reductions Cmission reductions of pollutants and their precursors for which ambient air quality standards exist and that meet the provisions of these regulations. Such reductions may be deposited in the ERC bank. Once banked and certified, the emission reductions become ERCs.

* * *

[See Prior Text]

Banking Database Cthe document/database that records all ERC deposits, withdrawals, transfers, and transactions.

Baseline Emissions Cthe level of emissions during the baseline period as calculated in accordance with LAC 33:III.607.D.2, that occur prior to an emission reduction, considering all limitations required by applicable federally enforceable regulations, below which any additional reductions may be credited.

Baseline Period Cthe period of time over which the historical emissions of a source are averaged. In general, this period shall be a two consecutive calendar year period within the five years immediately preceding the date the emission reduction occurred. A different time period within the stated time frame of not less than one calendar year may be allowed if the department determines it is more representative of normal stationary source operation. The calendar year(s) selected must follow or include the emissions inventory reporting year used in the most recent SIP attainment demonstration model.

Emission Offset Ca legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing facility, which is used to offset the increase in emissions of air pollutants from a new or modified facility in accordance with the requirements of LAC 33:III.504.

* * *

[See Prior Text]

Emission Reduction Credit (ERC) Can emission reduction approved by the department in accordance with the requirements of this Chapter that represents a voluntary decrease, or a decrease in excess of that required by an applicable regulation, order, etc., in the quantity of a pollutant discharged from a source. To be valid, emission reduction credits must be surplus, enforceable, permanent, and quantifiable.

Emission Reduction Credit Certificate (ERC Certificate) Ca document indicating ownership to a defined quantity and type of ERCs and issued by the department to the owner(s) identified on the certificate.

Enforceable Cas applied to emission reductions, all limitations and conditions that are enforceable by the administrator or the department, including the following:

a. requirements contained in 40 CFR parts 60, 61, and 63 (New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, and National Emission Standards for Hazardous Air Pollutants for Source Categories);

b. requirements within any applicable SIP;

c. any requirements contained in permits issued in accordance with 40 CFR 52.21 (Prevention of Significant Deterioration) or comparable state regulation (LAC 33:III.509);

d. any requirements contained in permits issued in accordance with 40 CFR 52.24 (Nonattainment New Source Review) or comparable state regulation (LAC 33:III.504);

e. requirements contained in operating permits issued in accordance with Louisiana permitting programs approved by EPA as meeting the requirements of Title V of the 1990 Clean Air Act Amendments; and

f. requirements contained in a Louisiana regulation, a Louisiana operating permit, or a Louisiana-issued enforcement instrument that is submitted to EPA and approved as a source-specific SIP revision.

Modeled Emissions Cfor a given point source, the emissions reported in the emissions inventory used in the most recent SIP attainment demonstration model.

Modeled Parishes Cthe parishes in which emissions were modeled as part of the most recent SIP attainment demonstration. These parishes include Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Charles, St. James, St. Helena, St. John the Baptist, West Baton Rouge, and West Feliciana.

Netting Cuse of an ERC created at an existing facility to compensate for emission increases associated with a proposed modification at the same facility and to, thus, avoid the requirements of new source review. ERCs used for netting are always internal to the source seeking credit.

Permanent Ca reduction shall be guaranteed through an enforceable permit limitation confirming the amount and duration of the decrease or other enforceable mechanism including, but not limited to, permanently dismantling the emissions unit or surrendering the permit. The department may consider an emission reduction whose quantity varies with time to be permanent by converting it to an annual equivalent emission reduction. Only permanent reductions in emissions can qualify for credit.

Quantifiable Cin reference to emission reductions, the amount, rate, and characteristics of the emission reduction can be estimated through a reliable method. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process parameters, production inputs, modeling, or other reasonable measurement practices. The same method of calculating emissions should generally be used to quantify emission levels both before and after the reduction.

Shutdown Cthe permanent cessation of operations or emissions. The date of the emission reduction created by the shutdown is the date of the last actual emissions from the source.

Shutdown Credits Ccredits resulting from the shutdown of a source.

Surplus Cmission reductions that are voluntarily created for an emissions unit and have not been required by any federally enforceable law, regulation, order, or requirement and are in excess of reductions used to demonstrate attainment of federal and state ambient air quality standards at the time a permit is issued that relies upon the reductions as offsets.

Transfer Cthe conveyance of an ERC from one entity to another. All "banking" transactions shall be recorded in the

ERC banking database and shown as debits and credits for the appropriate entity(ies).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 27:

§607. Stationary Point Source Emission Reductions

A. Pollutants

1. Reductions in the following types of air emissions are eligible for banking in accordance with these regulations:

- a. volatile organic compounds (VOCs); and
- b. nitrogen oxides (NO_x).

2. To the extent possible, the applicant shall speciate VOC according to individual compounds when applying to bank VOC ERCs.

B. Acceptable Methods of Creation. Methods of reducing emissions to receive credit under these regulations include, but are not limited to, the following:

1. installation of add-on control equipment (an actual emission reduction resulting from the installation of a level of control greater than that which is required by regulation, permit, or SIP provision if the applicant accepts a permit provision specifying a lower level of emissions);

2. change in process(es);

3. change in process inputs, formulations, products or product mix, or raw materials (an actual emission reduction resulting from more effective operation and maintenance of abatement and process equipment if the applicant accepts a permit provision specifying a lower level of emission);

4. reduction in actual emission rate(s);

5. permanent shutdown of emitting units or facilities;

6. production curtailment(s);

7. reductions in operating hours; and

8. other methods that might be applicable to eligible source types.

C. Criteria for ERC Approval. Emission reductions shall be recognized as ERCs only after the approval of the department has been obtained. The department shall approve emission reductions as ERCs that are determined to be surplus, permanent, quantifiable, and enforceable, as defined in LAC 33:III.605.

D. Procedures for Calculating the Emission Reduction. The following procedures shall be used in calculating the quantity of creditable air emission reductions:

1. define the baseline period. The applicant shall first determine the baseline period, as defined in LAC 33:III.605, over which the emission reductions are to be calculated;

2. quantify baseline emissions. The baseline emissions shall be determined by first calculating the actual emissions during the baseline period. Unless the department determines the baseline period to be one calendar year, the actual emissions for each year of the baseline period shall be averaged as follows:

a. if the source is located in a nonattainment area, the department must compare the current total point-source emissions inventory for the modeled parishes to the adjusted total point-source emissions inventory, as defined in LAC 33:III.605, used in the most recent SIP attainment demonstration model.

i. If the current total point-source inventory for the modeled parishes exceeds that used in the most recent SIP attainment demonstration model, baseline emissions may not exceed the quantity of emissions attributed to the point source(s) in question in that model. In this case, baseline emissions shall be the lower of actual, allowable, or modeled emissions, as defined in LAC 33:III.605.

ii. If the current total point-source inventory for the modeled parishes does not exceed that used in the most recent SIP attainment demonstration model, baseline emissions shall be the lower of actual or allowable emissions as defined in LAC 33:III.605.

b. for sources located in attainment areas identified in LAC 33:III.603, baseline emissions shall be the lower of actual or allowable emissions as defined in LAC 33:III.605;

3. calculate allowable future (potential) emissions. The applicant shall calculate the allowable future emissions for the source. The allowable emissions shall be based on the maximum emissions capacity of the source except that physical and operational limitations, including air pollution control equipment, restrictions on hours of operation or the type of material combusted, stored, or processed, or other emission restrictions that will be included in a federally enforceable air permit or applicable rules and regulations shall be considered in calculating the allowable future emissions;

4. calculate the difference in baseline emissions and future allowable emissions by subtracting the allowable future emissions from the baseline emission level; and

5. adjust for new emission reduction requirements and netting in accordance with LAC 33:III.621.B.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 27:

§611. Mobile Sources Emission Reductions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:881 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000), repealed LR 27:

§613. ERC Bank Recordkeeping and Reporting Requirements

A. Recordkeeping Requirements. All records shall be maintained for the life of the ERC and shall be available, upon request, for inspection by the department.

1. For each applicable pollutant (VOC and NO_x), each owner or operator shall maintain ERC records of the following:

a. a complete description of all projects that generated or required use of ERCs;

b. ERC deposits applied for, but not yet approved;

c. approved ERC deposits;

d. ERCs used as offsets;

e. ERCs that have expired or were sold to another source;

- f. the date of each transaction;
- g. the current ERC balance; and
- h. adjustments to the ERC balance for new emission reduction requirements and netting in accordance with LAC 33.III.621.B. Amounts should be specified in tons per year.

2. For each emission reduction that will be part of an ERC bank application or permit application for construction or modification that requires offsets, the owner or operator shall maintain records of the following:

- a. the year(s) determined to be the baseline period;
- b. actual emissions (TPY) before the start-up of the project as evaluated over the baseline period;
- c. the date of the actual emissions decrease;
- d. allowable emissions after the project (TPY);
- e. the emission change, emissions (TPY) attributed to the affected emissions unit(s) in the most recent SIP attainment demonstration model; and
- f. the creditability of the project. Creditability of projects shall be determined by reviewing all applicable federally enforceable regulations promulgated before and after the emissions reduction.

3. For each emission increase that will require use of ERCs, the owner or operator shall maintain records of the following:

- a. the year(s) determined to be the baseline period;
- b. actual emissions (TPY) before the start-up of the project as evaluated over the baseline period;
- c. the date of the actual emissions increase;
- d. allowable emissions after the project (TPY);
- e. the emission change; and
- f. the net contemporaneous increase or decrease in emissions at the facility.

B. Reporting Requirements

1. All emission reduction applications must meet the timing restrictions set forth in LAC 33:III.615.A and B in order to be eligible for banking as ERCs.

2. A summary report of all records required by Subsection A of this Section shall be submitted to the department by March 31 of each year. This submittal shall be certified, as specified in Subsection C of this Section, and mailed or hand-delivered to the Office of Environmental Services, Permits Division. This form is being provided to facilitate the proper submittal of information required by these provisions. The form is available at the department's website. If a reporting facility chooses not to use this form, the facility's submittal must meet the requirements of this Subsection. Creditability of each emission reduction project should be addressed in the cover letter.

C. Certification. A certifying statement is to be signed by the responsible official as defined in LAC 33:III.502 and shall accompany each ERC annual report that is submitted to attest that the information contained in the balance is true and accurate to the best knowledge of the certifying official. The certification shall include the full name, title, signature of the certifying official, and the date of signature.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:486 (March 2000), LR 26:2449 (November 2000), LR 27:

§615. Schedule for Submitting Applications

A. All applications for banking emission reductions shall be submitted by March 31 following the year in which the reductions occurred. ERC applications can be submitted in the form of an ERC bank application or as part of a permit application for construction or modification. Failure to apply for ERCs by March 31 will invalidate the emission reductions as offsets.

B. First-time applications for banking ERCs for attainment parishes identified in LAC 33:III.603 may be submitted at any time. If a parish is redesignated as ozone nonattainment by the EPA, application for banking ERCs for those parishes must be submitted within six months after the effective date of the EPA designation.

C. Applications for banking emission reductions that are to be made as part of a project that includes an increase in emissions for which the reduction will serve to offset the increase may be submitted as part of the permit application for the proposed increase. Such reductions will be reviewed for applicability as ERCs concurrently with the review of the permit application.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:878 (August 1994), amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 26:486 (March 2000), LR 27:

§617. Review and Approval of ERCs

A. The department's review and approval of an application for ERCs generally shall be conducted when a request is submitted to use the reductions as offsets. The review shall be conducted in accordance with LAC 33:III.607.

B. Preliminary Decision to Approve the ERC. Upon making a preliminary decision to approve any ERC, the department shall provide public notice of its decision. The public notice shall include the name and address of the applicant, the proposed quantity and type of emission reductions to be approved, an explanation of the department's initial assessment, the opportunity and time periods to submit written public comments concerning the application, and the name and address of the person to whom public comments and requests for public hearings should be sent. A period of 30 days after the date of publication will be allowed for public comment. The notice of preliminary approval may be incorporated with a notice of preliminary approval of an air permit for which the ERC will be used as offsets. If the notice of preliminary approval is not associated with an air permit, the department's preliminary decision relates only to the banking of the emission reductions and not to the use of the ERCs.

C. Issuance of ERC Certificate. Upon conclusion of the 30 day comment period provided in Subsection B of this Section, the department shall render a decision as to whether the department approves or disapproves the application. If the department decides to approve the ERC, the department shall issue an ERC certificate to the owner(s) or operator(s). A copy of the ERC certificate shall be retained by the department, and the original shall be delivered to the owner(s) or operator(s). The issued ERC certificate shall be recorded in the banking database.

D. Appeals. The owner(s) or operator(s) may appeal the department's decision following provisions specified in R.S. 30:2024.

E. Request for Recalculation of ERCs. Anytime after the original ERC application is submitted, the applicant may request the recalculation of the ERCs for the purpose of using alternative baseline emissions, an alternative baseline period, or availability of more accurate emissions data (i.e., performance test data, etc.). The review and approval of this recalculation request shall follow the same schedule as set forth in this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:878 (August 1994), amended by Office of Environmental Assessment, Environmental Planning Division, LR 27:

§619. Emission Reduction Credit Bank

A. The department shall maintain a banking database that shall consist of a record of all information concerning deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. All data in the banking database shall be available to the public upon request.

B. ERC Certificates. Certificates shall be issued for approved ERCs. A record of each ERC certificate issued shall be retained by the department. Each ERC certificate shall, at minimum:

1. bear the date of issuance;
 2. be signed by the department;
 3. include the owner(s)' name(s) and address(es);
 4. state the name of the facility where the emission reduction occurred;
 5. indicate the method of ERC creation;
 6. show the quantity of the ERC and type of pollutant;
- and
7. show when the emission reduction occurred.

C. Multiple ERC Certificates and Multiple Ownership. Single or multiple ERC certificates may be issued for a particular emission reduction project. At the owner(s)' or operator(s)' request, multiple ERC certificates shall be issued for each owner's proportional share.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), LR 27:

§621. Life and Adjustment of Approved ERCs

A. ERCs are valid for use as offsets for 10 years from the date of their actual emission reduction to the atmosphere, except as specified in Subsection B of this Section. An ERC is considered to be used upon issuance of a permit that relies upon the ERC as offsets.

B. ERCs may be used by the ERC certificate owner(s) or operator(s) or by any entity to whom the ERC certificate has been transferred, except that the department may reduce the quantity of ERCs under the following circumstances:

1. Adjustments for New Emission Reduction Requirements. If a new or revised federally enforceable regulation is adopted that will require, or would have required, all or a portion of the emission reductions that

comprise the ERC, that portion of the emission reduction required by the new regulation shall not be considered surplus. The quantity of ERCs shall be adjusted accordingly to account for new and revised emission reduction requirements in effect at the time of use of the ERCs. ERCs generated from the permanent shutdown of an emissions unit or facility shall not be adjusted.

2. Adjustments for Netting. Emission reductions used in a netting analysis (i.e., to determine the net emissions increase) as provided in LAC 33:III.504 that prevented the increase from being considered "significant" are not eligible for use as offsets. The quantity of ERCs used for this purpose shall be adjusted accordingly.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 27:

§623. Withdrawal and Transfer of Emission Reduction Credits

A. Withdrawal of ERCs. An ERC certificate may be withdrawn in whole or in part. The ERC owner must submit a written request to withdraw and use the ERCs. This request may be submitted in the form of an ERC bank application or as part of a permit application for construction or modification. Upon such request to withdraw ERCs from the bank, the department shall be responsible for recalculating the quantity of available ERCs for that entity and for providing that entity with an adjusted ERC certificate. In the case of a partial withdrawal, the department shall issue a new certificate reflecting the available credits remaining.

B. Transfer of ERCs. An ERC certificate may be transferred in whole or in part. The role of the department in the transfer of an ERC certificate shall be limited to providing information to the public, documenting ERC transfers, and registering ERC certificates. The department shall be notified within 30 days of any transfer of an ERC to another party. The department shall then issue a certificate within 30 days indicating the new owner. In the case of a partial transfer, the department shall issue a new certificate to the new owner as well as a revised certificate within 30 days to the current owner reflecting the available credits to each owner. The banking database shall indicate the transfer to the new owner (and reduction of credits when a partial transfer takes place).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:880 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), LR 27:

625. Application and Processing Fees

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:880 (August 1994),

repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on August 28, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ211. Such comments must be received no later than September 4, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ211.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Emission Reduction Credits Banking

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

First, language requiring that Emission Reduction Credits (ERC) must be "surplus when used" will be added. This revision is required in order to comply with EPA's interpretation of the Clean Air Act and current policy/guidance regarding Nonattainment New Source Review (NNSR) procedures. The regulated community is already required to comply with federal policy so this change will not impose any additional burden on them. This change is required to bring the state into compliance with federal policy. The rule revision will have the effect of nullifying some ERC currently approved and in the bank. The exact amount cannot be determined without a comprehensive review of all banked credits. Informal discussions with industry environmental personnel

have indicated that the one ERC (1 ton per year) has a market value of approximately \$5,000. LDEQ maintains a database of banked credits, but the financial transactions associated with buying and selling ERC are strictly between companies involved.

Second, all references to the ERC bank being a contingency measure for Louisiana's 15% VOC Reasonable Further Progress (RFP) Plan will be removed. The regulated community will benefit because ERCs will no longer be subject to confiscation, and sources will be able to withdraw ERCs in excess of the amount claimed by LDEQ in its 3% contingency measure, 5.7 TPD (see §601.A.3).

Next, the stipulations that mandate emissions reductions be banked as ERCs in order to use them to "net out" in a nonattainment area will be eliminated. The benefit to permittees comes in the form of increased flexibility.

Finally, LDEQ intends to delete the mobile emission reduction credits (MERCs) provisions under LAC 33:III.611. This program was never implemented; hence, there will be no costs or benefits associated with its removal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

James H. Brent, Ph.D. Robert E. Hosse
Assistant Secretary General Government Section Director
0107#045 Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Restricted Licenses; Adverse Sanctions; Temporary Licenses; Licensure by Credentials; Dental Assistant Duties; Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations
(LAC 46:XXXIII.105, 116, 120, 306, 502, 503, 706, 710, 1305, 1607, and 1619)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.105, "Restricted Licensees," 116 "Reconsideration of Adverse Sanctions," 120 "Temporary Licenses," 306 "Requirements of Applicants for Licensure by Credentials"(Dentists), 502 "Authorized Duties of Expanded Duty Dental Assistants," 503 "Guide to Curriculum Development for Expanded Duty Dental Assistants," 706 "Requirements of Applicants for Licensure by Credentials"(Hygienists), 710 "Administration of Local Anesthesia For Dental Purposes," 1305 "Air Abrasion Units," 1607 "Exemptions," and 1619 "Violations." No preamble has been prepared.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§105. Restricted Licensees

A. All applicants for a restricted license must successfully complete the Louisiana State Board of Dentistry examination in jurisprudence within 60 days of receiving said license, except those licenses issued for less than one year.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:23 (January 1996), LR 23:1529 (November 1997), LR 27:

§116. Reconsideration of Adverse Sanctions

A. - C. ...

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action. The applicant is not thereafter entitled to appear before the full board relative to this application; only applications which have been found to have substantial merit by the committee are to be submitted to the full board.

E. The full board, at its next meeting, may consider those applicants found by the committee to have substantial merit in open meeting if requested to do so by the applicant. In the absence of such request, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 27:

§120. Temporary Licenses

A. Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials for the nearest scheduled board meeting. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical

licensing examination is given. Under no circumstances shall a temporary license awarded to a dental hygienist be in effect for any period longer than 7 months. This Section does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 27:

Chapter 3. Dentists

§306 Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 15. ...

16. has furnished three current letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

A.17. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 27:

Chapter 5. Dental Assistants

§502 Authorized Duties of Expanded Duty Dental Assistants

A. A person licensed to practice dentistry in the State of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1. - 15. ...

16. Deleted.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:1217 (December 1996), LR 24:1115 (June 1998), LR 27:

§503. Guide to Curriculum Development for Expanded Duty Dental Assistants

A. ...

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

1. - 15. ...

16. clinical and written exams;

17. lecture on the placement of pit and fissure sealants;

18. lab on placement of pit and fissure sealants; performance evaluation lab shall be practicing on typodonts.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:1115 (June 1998), LR 27:

Chapter 7. Dental Hygienists

§706 Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. - 14. ...

15. has furnished three current letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

A.16. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July, 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 27:

§710 Administration of Local Anesthesia for Dental Purposes

A. - E. ...

F. Deleted.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 27:

Chapter 13. Dental Laser and Air Abrasion Utilization

§1305 Air Abrasion Units

A. Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 24:1117 (June 1998), LR 27:

Chapter 16. Continuing Education Requirements

§1607. Exemptions

A. - B. ...

C. Due to the fact that dental and dental hygiene licenses are issued on a biennial basis, dentists and dental hygienists must accumulate one-half of the continuing education hours required under LAC 46:XXXIII.1611 and 1613 during the second year of the biennial period in which they received their initial licensure. For example, if a dentist receives his license immediately after graduation in June 1999, and he/she does not have to renew their license until the year 2001, that licensee need only accumulate 20 hours of continuing education, one-half of which must be clinical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 27:

§1619. Violations

A. Violation Table

	Minimum	Maximum
1. First violation of continuing education	\$500.00	\$2,000.00
a. For completion of 3/4th or more of the requirement	\$500.00	
b. For completion of 1/2 to 3/4th of the requirement	\$1,000.00	
c. For completion of 1/4th to 1/2 of the requirement	\$1,500.00	
d. For completion of 0 to 1/4th of the requirement	\$2,000.00	
2. Second violation	\$1,000.00	\$4,000.00
3. All continuing education not completed on time shall be completed no later than August of the following calendar year and shall not count toward the continuing education requirements of the subsequent renewal period.		
4. A second violation of the continuing education requirements shall be reported to the National Practitioner Data Bank, whereas the first violation will not.		
5. After a second violation of continuing education requirements, the licensee shall be placed on a minimum of a two-year period of probation, depending upon the number of hours not completed.		
6. A third violation of continuing education requirements will result in the suspension of a dental or dental hygiene license for a period of not less than six months.		
7. Any subsequent violation of continuing education requirements will result in the revocation of a dental or dental hygiene license.		

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8)and(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 27:

Family Impact Statement

The Louisiana State Board of Dentistry hereby issues this Family Impact Statement: The proposed rule for the Board of Dentistry will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the Board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Restricted Licenses; Adverse Sanctions;
Temporary Licenses; Licensure by Credentials; Dental
Assistant Duties; Curriculum Development for
Expanded Duty Dental Assistants; Local Anesthesia; Air
Abrasion Units; Exemptions; and Violations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
A cost of \$500 is estimated to implement these rule changes. Notification of these rule changes will be included in a mass mailing to all licensees, which has already been budgeted for previous rule making changes. It is anticipated that these rule changes will be sent to licensees during the summer of 2000.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry. There will be no effect on any other state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
0107#038

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners in Dietetics and Nutrition**

Issuance and Renewal of Licensure (LAC 46:LXX.111)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Louisiana Board of Examiners in Dietetics and Nutrition pursuant to the authority vested in the Board by R.S. 37:3085(4), intends to adopt rules editing the Board's Rules and Regulations to comply with the Dietetic/Nutrition Practice Act. All other rules dealing with registered dietitians except the Rules and Regulations promulgated in 1988 and amended in June 1999 are hereby repealed.

The proposed rules correct a typographical error in Rule No. 111. F., and clarify the terms for renewal of the Licensed Dietitian/Nutritionist in accordance with changes to the Practice Act in 1999. The proposed amendments to the Rules and Regulations are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX. Registered Dietitians

Chapter 1. Dietitians/Nutritionists

§111. Issuance and Renewal of Licensure

A. - E.8. ...

F. Abandonment of Application. An applicant shall be deemed to have abandoned the application if the

requirements for licensure are not completed within one year of the date on which the application was received. An application submitted subsequently to an abandoned application shall be treated as a new application.

G. - H.3. ...

4. Licensed Dietitian/Nutritionist

a. Licenses will expire on June 30, of each year.

b. Applicants receiving an initial license in the last quarter of the fiscal year (April, May, June) are not required to renew that fiscal year.

5. Provisional License

a. ...

b. Applicants receiving an initial license in the last quarter or the fiscal year (April, May, June) will not be required to renew that fiscal year.

6. Continuing Education Requirement for Renewing License

a. For renewal of licensed dietitian/nutritionist license, licensees must submit proof of holding current CDR registration or of having completed fifteen hours of continuing education per license year. The hours may be certified by the Commission on Dietetic Registration or the Board.

H.6.b. - H.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984); amended by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435. (July 1988), LR 27:

Interested persons may submit written comments to Suzanne L. Pevey, Administrator, Louisiana Board of Examiners in Dietetics and Nutrition, 18550 Highland Road, Suite B, Baton Rouge, LA 70809 on or before August 9, 2001. She is the person responsible for responding to inquiries regarding the proposed rules.

Jacinda Bonvillain, Ph.D., LDN, RD
Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Issuance and Renewal of Licensure

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The Louisiana State Board of Examiners in Dietetics and Nutrition estimates that it will cost approximately \$1,115.00 to implement the proposed amendments to the Board's Rules and Regulations in the fiscal year 2001.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The implementation of the proposed rules will not have an effect on revenue collections of state or local governmental units. The proposed rule changes are for clarification and do not make any changes to the existing rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost to directly affected persons based on the proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment related to the proposed rules.

Suzanne L. Pevey
Administrator
0107#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Subpoenas for Hearing
(LAC 46:XLV.9917)**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270(B), intends to amend its procedural rules of adjudication governing the issuance of subpoenas in connection with adjudication hearings, LAC 46:XLV.9917.A. Currently such rules provide that subpoenas may be issued only upon the signature of the Executive Director. The proposed amendment provides for the issuance of subpoenas upon the signature of either the Executive Director or such other individual as may be designated by the Board. It is anticipated that the amendment will facilitate the processing of subpoenas in the absence of the Executive Director or at such times as she may be attending to other affairs of the Board.

The proposed rule amendment has no known impact on family, formation, stability or autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Professions
Subpart 5. Rules of Procedure**

Chapter 99. Adjudication

§9917. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this section, the Executive Director, or such other individuals as may be designated by the Board, shall sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendment until 4:00 p.m., July 20, 2001, to Virginia G. Benoist, Executive Director, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans,

LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

Virginia G. Benoist
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Subpoenas for Hearing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs, which are estimated to be \$40.00 in FY2001, the proposed rule amendment will not result in costs or savings to the Board of Medical Examiners or any state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the proposed rule amendment will have no effect on the revenue collections of the Board of Medical Examiners or of any state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amendment will result in no costs and/or economic benefits to directly affected persons, including applicants for medical licensure, licensed physicians or governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment will have no impact on competition and employment.

Virgina G. Benoist
Executive Director
0107#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary CodeCGeneral Provisions (LAC 51:I.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, proposes to repeal Chapter I and promulgate Part I of the Louisiana State Sanitary Code to be codified in accordance with the Administrative Procedures Act as follows.

Title 51

**PUBLIC HEALTHCSANITARY CODE
Part I. General Provisions**

Chapter 1. General

§101. Definitions [formerly paragraph 1:001]

A. Unless otherwise specifically provided in the Code, the following words and terms are defined as follows:

CodeCthe word *Code* means Sanitary Code.

Emergency SituationCrefers to any situation or condition which warrants immediate enforcement measures more expedient than normal administrative violation control and abatement procedures due to its perceived imminent or potential danger to the public health.

Person Any natural person, individual, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

Shall Refers to mandatory requirements.

Should or *May* Refers to recommended or advisory procedures or equipment.

State Health Officer The legally appointed and/or acting State Health Officer of the Department of Health and Hospitals having jurisdiction over the entire State of Louisiana, and includes his/her duly authorized representative in accordance with LSA R.S. 40:4 and 40:5.

Substantial Renovation

a. alterations or repairs made within a twelve month period, costing in excess of 50 percent of the then physical value of the existing building; or

b. alterations or repairs made within a twelve month period, costing in excess of \$15,000; or

c. alterations or repairs made within a twelve month period, involving a change in "occupancy classification" or use of the property;

d. the physical value of the building in Subparagraph a of this Section may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located;

e. the cost of alterations or repairs in Subparagraph a or b of this Section may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor; or

ii. by copies of receipts for the actual costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§103. Severability [formerly paragraph 1:006]

A. If any provision of this Code, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Code, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§105. Administrative Enforcement Procedures [formerly paragraph 1:007-1]

A. The proper documentation of violations is an essential part of the enforcement process. When an establishment is inspected and violations of the Code are found, they shall be noted either on a Notice of Violation(s) form or letter. The sanitarian, engineer or other representative of the State Health Officer shall describe with particularity the nature of the violation(s), including a reference to the provision(s) of the Code which have been violated. A specific date shall be set for correction and the violator shall be warned of the penalties that could ensue in the event of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§107. Notice of Violation [formerly paragraph 1:007-2]

A. The Notice of Violation form or letter listing the violation(s) and urging correction thereof may:

1. be left with the operator, owner, manager, lessee or their agent, or person in charge of the establishment, facility, or property at the time of such inspection or monitoring; or

2. be delivered to the person in charge of the establishment, facility, or property as soon as a determination is made that there is/are violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§109. Violation Notice [formerly paragraph 1:007-4]

A. In those cases in which the State Health Officer or his/her representative determines that a violation has occurred and a decision is made to issue a notice of violation, the notice of violation shall be either sent to the owner, manager, lessee or their agent, of the establishment, facility or property involved by regular mail with a U.S. postal service certificate of mailing, or hand delivered to the owner, manager, lessee or their agent of the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§111. Reinspection [formerly paragraph 1:007-5]

A. If reinspection discloses that the violation(s) have not been remedied the State Health Officer or his/her representative, may issue a Compliance Order or take whatever action is authorized by law to remedy the violation(s). Any Compliance Order issued pursuant to this section shall inform the aggrieved party of his right to an administrative appeal to the Division of Administrative Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§113. Suspension/Revocation [formerly paragraph 1:007-21]

A. Pursuant to the provisions of LSA R.S. 40:4, R.S. 40:5 and LSA R.S. 40:6, the State Health Officer acting through the Office of Public Health:

1. may suspend or revoke an existing license or permit;

2. may seek injunctive relief as provided for in LSA R.S. 40:4;

3. may impose a fine for violations of Compliance Orders issued by the State Health Officer with the approval of the Secretary of the Department of Health and Hospitals. (R.S. 40:6);

4. may (in cases involving pollution of streams, rivers, lakes, bayous, or ditches which are located in public rights of way outside Lake Pontchartrain, Toledo Bend Reservoir or the Sabine River, their drainage basins or associated waterways):

a. suspend or revoke the existing license or permit; and/or

b. issue a civil compliance order and impose a fine of \$100 per day up to a maximum of \$10,000 in cases where establishments operate without a license or permit or continue to operate after revocation or suspension of their license or permit;

5. may (in cases involving pollution of Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, their drainage basins, or associated waterways and pursuant to the provisions of LSA R.S. 40:1152 and 40:1153):

a. issue a civil compliance order and/or suspend or revoke the existing license or permit; and /or

b. impose a fine of \$100 per day up to a maximum of \$10,000 in cases where establishments operate without a license or permit, or continue to operate after revocation or suspension of their license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§115. Emergency Situations [formerly paragraph 1:007-21]

A. The State Health Officer may issue Emergency Orders pursuant to the authority granted in LSA R.S. 40:4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§117. Employee Health

A. [formerly paragraph 1:008-1] No person known to be a case or carrier of a communicable disease, as defined in Chapter II, Section 2:001, in an infectious stage which can be transmitted through water, milk or other food materials, shall be employed as a food handler or permitted to work in any capacity in a manufacturing, processing or packing plant; in a food, drug or cosmetic plant; in any bakery or manufacturing confectionery; in a food salvaging or repackaging area; in syrup rooms, mixing areas, filling rooms, in an artificial ice or cold storage plant, or in the delivery or distribution of ice; in a dairy farm, transfer station, receiving station or milk plant; in a marine or fresh water animal food product establishment; in a game and or small animal slaughterhouse or meat packing plant; in a water treatment plant; in a hotel, lodging house, or boarding house, in a school, day care center, residential facility (as defined in Chapter XXI) in any capacity which might bring him into contact with other employees or pupils; in a retail food store/market; or in a food establishment; except where there is no reasonable possibility of disease transmission by such person.

B. [formerly paragraph 1:008-2] Any individual suspected of being a case or carrier of a communicable disease, as defined in Chapter II, Section 2:001, or who is a contact of or has been exposed to a communicable disease which can be transmitted through water, milk or other food or beverage materials shall submit to an examination by a licensed physician and/or to the collection of appropriate specimens as may be necessary or desirable in ascertaining the infectious status of the individual. Any such person who refuses to submit to such an examination or specimen collection shall not be permitted to work in the types of establishments listed in §117.A until he submits to such examination.

C. [formerly paragraph 1:008-3] Routine examinations and collections of specimens shall not be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§119. Plans and Permits

A. [formerly paragraph 1:009-1] Certain activities require submission of plans to the State Health Officer, who must approve the plans and issue a permit prior to the initiation of the activity. This includes but is not limited to the operation, construction or renovation of facilities. For details, see the appropriate Chapter (Part) of this Code.

B. [formerly paragraph 1:009-2] In those instances in which such activities, for which submission of plans prior to initiation of the activity is required, are found to exist, and no such submittal of plans has been made, the State Health officer shall, upon submittal of the required plans and determination of compliance of such activity with this Code, offer no objection to the existence of such activity. This shall not be construed to limit in any way the State Health Officer's authority to revoke or rescind such position of no objection, just as with any other approval or permit, as per §119.C of this Code. The burden of proof of compliance shall be on the applicant.

C. [formerly paragraph 1:009-3] The State Health Officer can revoke, and reissue permits, or issue new permits as provided in this Code. The addresses to which requests shall be submitted are set forth in the appropriate Chapters (Parts) of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§121. Effective Date of Code [formerly paragraph 1:011]

A. The provisions of this Code shall have effect from the date of publication hereof as a Rule in the *Louisiana Register*, except as hereinafter otherwise specifically provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§123. Exemptions from Code [formerly paragraph 1:011]

A. When the construction of buildings and facilities was approved by the State Health Officer pursuant to Sanitary Code requirements then in effect, upgrading of such buildings and facilities shall not be required except where:

1. substantial renovation of such buildings or facilities is undertaken; or

2. where the ownership thereof or the business located therein changes subsequent to the effective date of the Sanitary Code; or

3. where a serious health threat exists, unless otherwise specifically provided hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

The following Table of Contents and Cross Reference listings (Item A. and Item B. respectively) are included as tools to assist staff and/or the public in locating provisions included in the preceding proposed rule which would repeal and replace Chapter I of the Sanitary Code as previously

promulgated on November 20, 1992. The referenced listings are as follows:

Item A.	Table of Contents
Part I.	General Provisions
	Chapter I. General

'101. Definitions.....	1
'103. Severability.....	1
'105. Administrative Enforcement Procedures.....	2
'107. Notice of Violation.....	2
'109. Violation Notice.....	2
'111. Reinspection.....	2
'113. Suspension/Revocation.....	2
'115. Emergency Situations.....	3
'117. Employee Health.....	3
'119. Plans and Permits.....	3
'121. Effective Date of Code.....	4
'123. Exemptions from Code.....	4

Item B.	Cross Reference
Part I	- Chapter I
Chapter 1.	- new
'101	- 1:001
'103	- 1:006
'105	- 1:007-1
'107	- 1:007-2
'109	- 1:007-4
'111	- 1:007-5
'113	- 1:007-21
'115	- 1:007-21
'117(A)	- 1:008-1
'117(B)	- 1:008-2
'117(C)	- 1:008-3
'119(A)	- 1:009-1
'119(B)	- 1:009-2
'119(C)	- 1:009-3
'121	- 1:011
'123	- 1:011

Family Impact Statement

In compliance with the provisions of R.S. 49:972 as legislated by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this above proposed rule on the family has been considered. The proposed rule has no known impact on the family functioning, stability nor autonomy as described in R.S. 49:972.

A public hearing on the adoption of this proposed rule change will be held on Tuesday, August 28, 2001 at 1:30 p.m. at 6867 Bluebonnet Blvd., Room 230, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Interested persons may also submit written comments to James Antoon Chief Sanitarian, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810. He is responsible for responding to inquiries regarding this adoption. The deadline for the receipt of all written comments is 4:30 p.m. on the next day following the public hearing as scheduled.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sanitary Code C General Provisions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS(Summary)
There will be an estimated \$720.00 implementation cost during FY 01-02 for the publication of this rule-making in the Louisiana Register.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No increased revenue collections are expected to accrue to state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No additional costs to consumers or non-governmental groups are expected.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action will in all likelihood have no effect on competition and employment in the private sector.

Madeline McAndrew
Assistant Secretary
0107#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Estate Recovery Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Previously, federal laws and regulations did not require states to seek recovery of Medicaid payments made under the State Plan from the estates of individuals. However, the Omnibus Budget Reconciliation Act of 1993, Section 13612(a) amended Section 1917(b) of the Social Security Act (42 U.S.C. 1396p) thereby mandating that states seek recovery of Medicaid payments for certain services provided under the State Plan. In order to comply with this federal law and to avoid sanctions or penalties from the federal government, the Bureau adopted a rule implementing an estate recovery program to recover Medicaid payments for nursing facility services, home and community based services and related hospital and prescription drug services from the estate of an individual who was 55 years of age or older when such services were received (*Louisiana Register, Volume 22, Number 5*). Act 1118 of the 1999 Regular Session of the Louisiana Legislature amended R.S. 46:153(G) relative to the Medicaid estate recovery program. The Bureau now proposes to amend the May 20, 1996 rule to comply with Act 1118 and to provide for cost effectiveness guidelines and to add regulations addressing privilege on the succession estate and reductions in recovery in consideration of reasonable and necessary expenses

incurred by the decedent's heirs to maintain the homestead of the decedent.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 20, 1996 rule to provide for cost effectiveness guidelines and to add regulations addressing privilege on the succession estate and reductions in recovery in consideration of reasonable and necessary expenses incurred by the decedent's heirs to maintain the homestead of the decedent. The Bureau shall seek recovery of Medicaid payments for nursing facility services, home and community-based services, and related hospital and prescription drug services from the estate of an individual who was 55 years of age or older when such services were received.

A. Definitions

Assessed Value—Assessed value shall mean the value of the homestead as assessed by the Tax Assessor in the Parish in which the homestead is located.

Cost-Effectiveness—The process whereby the Medicaid agency balances and weighs that which it may reasonably expect to recover, against the time and expense of recovery. Application of the provision will be deemed to be cost-effective when the amount reasonably expected to be recovered exceeds the cost of recovery and the amount reasonably expected to be recovered is greater than \$500.

Dependent—A dependent is defined as one who was reliant on the decedent due to a medical condition or age which rendered him/her unable to provide for his/her own support and for whom the decedent provided more than one half of his/her support during the immediate 12 months prior to the death of the decedent and is the decedent's:

1. son, daughter, step-son, step-daughter or a descendant thereof;
2. brother or sister, whether by blood or marriage, or a descendant thereof;
3. father, mother, step-father, step-mother, or sibling of ancestor thereof;
4. son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the decedent.

Estate—The estate shall be understood to be the gross estate of the deceased as determined by Louisiana succession law.

Homestead—A homestead shall be defined as a tract of land or two or more tracts of land with a residence on one tract and a field, pasture, or garden on the other tract or tracts, not exceeding 160 acres, buildings and appurtenances, whether rural or urban, owned and occupied by the decedent or a residence, including a mobile home, owned and occupied by the decedent, regardless of whether the homeowner owns the land upon which the home or mobile home is sited. This same homestead shall be the primary residence which served as a bona fide home and which was occupied by the recipient immediately prior to the recipient's admission to a nursing facility or when the recipient began receiving home and community-based services.

Undue Hardship—An undue hardship exists when application of the provision would result in placing an unreasonable burden on a dependent. An undue hardship may exist when:

1. the estate is the sole income producing asset of a dependent, and income from the estate is limited;
2. recovery would result in a dependent becoming eligible to receive public assistance, including but not limited to Medicaid;
3. any other compelling circumstances that would result in placing an unreasonable financial burden on a dependent.

An undue hardship does not exist if the circumstances giving rise to the hardship were created by or are the result of estate planning methods under which assets were sheltered or divested in order to avoid estate recovery.

B. General Provisions

1. Medicaid estate recovery is not a condition of eligibility. The applicant/recipient shall be informed at the time of application/redetermination that federal law and regulations mandate estate recovery action by the states and that medical assistance claims paid by the Bureau of Health Services Financing may be subject to estate recovery.

2. Recovery Limitations

a. Recovery can only be made after the death of the individual's surviving spouse, if any, and only at the time when the individual has no surviving child under age 21, or a child blind or disabled as defined in Section 1614 of the Social Security Act.

b. Recovery from the homestead as defined in Section I.E., can only be made when there is no dependent of the individual as defined in Section I.D., residing in the home, who resided there for at least two years immediately before the date of the individual's admission to the institution (or the beginning of home and community-based services), and has resided there on a continuous basis since that time.

c. Recovery from the homestead as defined in Section I.E., can only be made when there is no sibling of the individual residing in the home, who has resided there for at least one year immediately before the date of the individual's admission to the institution (or the beginning of home and community-based services), and has resided there on a continuous basis since that time.

3. Recovery Adjustments

a. Recovery may be waived in cases in which it is not cost-effective for the state to recover from the individual's estate.

b. Recovery from the homestead shall be determined as not cost-effective when the recipient's interest in an otherwise seizable homestead is less than one half of the assessed value of property exempt from ad valorem taxes under Article VII, Section 20 of the Constitution of Louisiana.

c. The Department's percentage of recovery will be as follows.

i. If the Medicaid recipient's interest in the homestead is \$37,500 or less the Department will not seek recovery of its Estate Recovery lien from the homestead.

ii. If the Medicaid recipient's interest in the homestead is \$37,501 to \$50,000, the Department will recover 25 percent of its Estate Recovery lien from the homestead.

iii. If the Medicaid recipient's interest in the homestead is \$50,001 to \$75,000, the Department will recover 50 percent of its Estate Recovery lien from the homestead.

iv. If the Medicaid recipient's interest in the homestead is \$75,001 to \$100,000, the Department will recover 75 percent of its Estate Recovery lien from the homestead.

v. If the Medicaid recipient's interest in the homestead is \$100,001 or greater, the Department will recover 100 percent of its Estate Recovery lien from the homestead.

d. Recovery may be reduced in consideration of reasonable and necessary documented expenses incurred and documented by the decedent's heirs, to maintain the homestead of the decedent during the recipient's period in an institution while receiving Medicaid benefits, if the homestead is part of the succession estate;

4. Recovery Notice. The Bureau will seek recovery for medical assistance from the decedent's estate. The family or the heirs will be given advance notice of the proposed action and the time frame in which they have the opportunity to apply for an undue hardship waiver.

The notice will be served on the executor, legally authorized representative or succession attorney of the individual's estate. If there is no executor, legally authorized representative or succession attorney, the notice will be sent to the family or the heirs. The notice shall also specify the following information:

- a. the affected recipient's name, Social Security Number and recipient Medicaid number;
- b. the action the state intends to take;
- c. the reason for the action;
- d. the dates of service associated with the recovery action and the amount of the Department's claim, i.e. amount to be recovered against the recipient's estate;
- e. the right to and procedure for applying for a hardship waiver;
- f. the individual's right to a hearing;
- g. the method by which the individual may obtain such a hearing;
- h. the time periods involved in requesting a hearing or in exercising any procedural requirements under the Medicaid Estate Recovery Program.
- i. The notice will request that the following information be provided to the Bureau:
 - i. Copies of all state and federal estate tax returns prepared and/or filed in connection with the succession of the decedent;
 - ii. Copies of all succession pleadings filed in connection with the succession of the decedent, including any judgement or judgements of possession;
 - iii. Original document or verification from the Assessor in the Parish in which the homestead is situated as to the assessed value of the homestead at the time of the decedent's death.

iv. In the event that no state or federal estate tax return has been filed or prepared and no succession has been judicially opened, the Bureau is to be advised as to when such documents will be available and/or when the succession is expected to be opened.

5. Recovery Privilege. The claim of the Department of Health and Hospitals shall be considered a privilege on the succession and shall have a priority equivalent to an expense of last illness as prescribed in Civil Code Article 3252 et seq.

C. Administrative Review of Agency Decisions. Any aggrieved party may request that the agency review and reconsider any or all aspects of the particular recovery matter in which they are involved. This request must be made within 20 days of the receipt of the certified notice of the agency's claim for recovery. If such a request is timely made, the agency shall review the matter and shall review and consider any facts or documentation presented or forwarded in connection with the matter. In addition to this informal reconsideration, any aggrieved party shall have the administrative appeal rights available pursuant to the Louisiana Administrative Procedure Act.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Tuesday, August 28, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Estate Recovery Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is not feasible to estimate the fiscal impact of this proposed rule due to the lack of essential data to make accurate fiscal projections. Required data would include the amount of the Medicaid expenditures that will be made for recipients who will be subject to this proposed rule and the value of their estates which may be recoverable under this proposed rule. It is anticipated that \$400 (\$200 SGF and \$200 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 not feasible to estimate the fiscal impact of this proposed rule due to the lack of essential data to make accurate fiscal projections. Required data would include the amount of the Medicaid expenditures that will be made for recipients who will be subject to this proposed rule and the value of their estates which may be recoverable under this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule would affect heirs to the estates of Medicaid recipients who received nursing facility services, home and community based services and related hospital and prescription drug services at age fifty-five (55) or older. If Medicaid eligibility is expanded, more heirs could be

affected by the recovery of Medicaid payments from these estates. The hardship exceptions should limit the number of heirs that would be subject to estate recovery.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0107#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Rule No. 9C 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, five 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.

Persons interested in obtaining copies of the Rule or in making comments relative to these proposals may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business at 4:30 p.m. August 29, 2001.

On August 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. 9C 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 of
Management and Finance
0107#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Application of the Louisiana Individual
Income Tax to Native Americans
(LAC 61:I.1303)

Under the authority of R.S. 47:293(6)(a)(iii) and R.S. 47:295 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1303 relative to the taxation of the income of Native Americans.

Louisiana Revised Statute 47:293(6)(a)(iii) excludes from "tax table income" income which is "exempt from taxation under the laws of Louisiana or which Louisiana is prohibited from taxing by the constitution or laws of the United States." This Rule will clarify the application of the Louisiana individual income tax to Native Americans.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 13. Income: Personal

**§ 1303. Application of the Louisiana Individual Income
Tax to Native Americans**

A. The income of an enrolled member of a federally recognized Indian tribe residing on that tribe's reservation that is derived from sources on that reservation shall be exempted from Louisiana individual income tax. The determination of the sources of gross allocable income shall be consistent with R.S. 47:243.

B. The income of an enrolled member of a federally recognized Indian tribe residing on that tribe's reservation that is derived from sources outside of that reservation is taxable for Louisiana individual income tax purposes. This includes income derived from sources outside of the state.

C. The income of an enrolled member of a federally recognized Indian tribe residing in Louisiana off of that tribe's reservation is taxable for Louisiana individual income tax purposes regardless of source.

D. If an enrolled member of a federally recognized Indian tribe resides on that tribe's reservation for a portion of the year and resides off of that tribe's reservation for a portion of the year such enrolled member shall be taxed based upon where such enrolled member resided when the income in question was earned.

E. Compensation from military sources paid to an enrolled member of a federally recognized Indian tribe shall be exempted from Louisiana individual income tax if:

1. such enrolled member was residing on that tribe's reservation at the time of entering the armed forces of the United States; and

2. such enrolled member has not elected to abandon his or her residence on that tribe's reservation.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:293(6)(a)(iii) and R.S. 47:295.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:

Family Impact Statement

The proposed adoption of LAC 61:I.1303, regarding the application of the Louisiana individual income tax to Native Americans 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:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have a minimal effect on family earnings and family budgets. Implementation of this proposed rule would allow enrolled members of federally recognized Indian tribes to receive an exemption from Louisiana individual income tax for such income. Conversely, the income of an enrolled member of a federally recognized Indian tribe residing on that tribe's reservation that is derived from sources outside of that reservation would be taxable for Louisiana individual income tax purposes.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Susan L. Dunham, Assistant Secretary, Office of Legal Affairs, in person to 330 North Ardenwood Drive, Baton Rouge, LA 70806, or by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409. All comments must be submitted no later than 4:30 p.m., August 28, 2001. A public hearing will be held on August 29, 2001, at 2:30 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: Application of the Louisiana Individual
Income Tax to Native Americans**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed regulation, which clarifies the application of the Louisiana individual income tax

to Native Americans, would have an indeterminable, but negligible impact on the agency's costs. The agency does not receive a significant number of Native American individual income tax returns. As such, the estimated implementation costs associated with this proposed regulation would be negligible.

The implementation of this proposed regulation will have no impact upon any local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There would be an indeterminable effect on revenue collections for the state as a result of this proposed regulation. The exemption from Louisiana individual income tax of compensation from military sources paid to an enrolled member of a federally recognized Indian tribe would have a negative effect on revenue collections. However, the taxation of income derived from sources outside of the state would have a positive effect on revenue collections. The net result upon the revenue collections of the state should be negligible.

There should be no effect on revenue collections of 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)

Enrolled members of federally recognized Indian tribes who receive compensation from military sources would receive an exemption from Louisiana individual income tax for such income. This could be seen as an economic benefit for the individual Native American and his/her family. The income of an enrolled member of a federally recognized Indian tribe residing on that tribe's reservation that is derived from sources outside of that reservation would be taxable for Louisiana individual income tax purposes. This could be seen as an economic cost for the individual Native American and his/her family.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0107#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Definition of Sales Price (LAC 61:I.4301)

Under the authority of R.S. 47:301 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of *sales price* for sales tax purposes.

These amendments provide guidance concerning the definition of *sales price* in R.S. 47:301(13). They contain descriptions of items included and excluded from that definition. Some items included in the price of a transaction and subject to sales tax are material, labor and overhead costs. Some items excluded from the taxable base are costs for shipping the product to the customer and federal retailers' excise tax that must be collected from the customer.

These amendments also provide guidance on items specifically excluded from the taxable sales price by R.S. 47:301(13). Charges excluded by definition are trade-ins,

interest charges, service charges, cash discounts, installation charges, etc. Exclusions are also provided for manufacturer buy downs, the first \$50,000 paid for farm equipment used in poultry production, and funeral directing services. An explanation is also provided on the alternative valuation method of refinery gas and other petroleum products.

Title 61

DEPARTMENT OF REVENUE

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Sales Price

a. R.S. 47:301(13)(a) defines *sales price* as the economic value, including cash, credit, property, or services, that is received or paid for the sale of tangible personal property. Any part of the *sales price* that is related to costs incurred by the vendor to bring the product to market or make the product available to customers becomes part of the tax base and is subject to sales tax even if a separate charge is made on the invoice.

i. Costs included in the *sales price* are:

(a). materials used;

(b). resale inventory;

(c). freight or shipping costs from the supplier to the vendor, or from the vendor to the customer where the transportation by the vendor is an essential or necessary element of the agreement of sale, as would normally be true in transactions for the sale and delivery of ready-mixed concrete or similar products:

(i). these transportation expenses are

incurred by a seller in acquiring tangible personal property for sale or in transporting tangible personal property to the place of sale and form part of the seller's overhead, and

(ii). cannot be excluded from the taxable

sales price even when separately stated to the purchaser;

(d). utilities;

(e). insurance;

(f). financing for business operations;

(g). labor;

(h). overhead;

(i). service costs:

(i). handling charges are considered service costs; and

(ii). are distinguishable from charges for transportation under the definition of *sales price* and related court decisions;

(j). separately stated costs incurred by a vendor that are charged for the procurement, or purchasing, of tangible personal property on behalf of the customer; and

(k). excise taxes imposed on the producer, processor, manufacturer or importer, as these taxes become a part of the dealer's cost.

ii. The following are examples of charges not considered part of the *sales price* because they are not related to costs incurred by the vendor to bring the product to market:

(a). freight, shipping, or delivery charges from the vendor or the vendor's agent directly to the customer

after the sale has taken place when the following two conditions are met.

(i). The seller of the tangible personal property separately states the charges for the actual delivery or transportation of the sold property from the place of the sale to the destination designated by the purchaser.

(ii). On the invoices for the sale and transportation of tangible personal property, the place of the sale of the property, and the fact that the transportation is rendered subsequent to the sale and purchase and for the buyer's account, must be clearly determinable.

(b). federal retailers' excise tax that must be collected from the consumer or user.

(i). If these taxes are billed to the user or customer separately, they should be excluded from the tax base.

(ii). However, if the retailers' excise tax is not billed separately, the total selling price, including the excise tax, is taxable.

iii. R.S. 47:301(13)(a) specifically excludes the following charges from the definition of *sales price*:

(a). the market value of an item traded in on the sale, as specified in R.S. 47:301(13)(a):

(i). the trade-in item must be one the vendor would normally accept in the course of business and must be similar to the item being purchased. An example of this is trading in a motorcycle on the purchase of a pickup truck;

(ii). exchanging an item that is not similar to the item being purchased will be treated as a barter or exchange agreement as described in R.S. 47:301(12). An example of this would be the owner of a clothing store providing suits to the owner of an appliance store in return for a dishwasher. In this instance, each selling party must report the transaction on his sales tax return;

(iii). the transfer of ownership of the trade-in must occur simultaneously with the sales transaction;

(iv). the trade-in value must be established prior to the sale;

(b). interest charges not exceeding the legal interest rate to finance the sale;

(c). service charges for financing, up to six percent of the amount financed;

(d). cash discounts allowed by the vendor if the customer takes advantage of the discount;

(e). labor to install the tangible personal property;

(f). separately stated charges by a seller for installing property that he has sold;

(i). installing includes the charge by the seller of movable property for setting up that property on or the attachment of that property to other movable or immovable property that is already owned or possessed by the purchaser;

(ii). examples of the types of installation charges that are excludable from *sales price* under this provision are the charges for setting up an appliance in a home or business, or the first-time attachment of a new mobile telephone, new radio, or new speakers to a customer-owned vehicle that previously was without such property;

(iii). exclusion is not intended, however, for the charges for removal and replacement of worn or

malfunctioning components of movables, such as the removal and replacement of tires and batteries in vehicles. These types of services constitute repairs to movables that are defined in R.S. 47:301(14)(g) as taxable "sales of services;"

(g). charges to set up the property on the taxpayer's premises;

(h). charges for remodeling or repairing the property sold if:

(i). these services are provided prior to the sale;

(ii). the vendor sends the property to another dealer or service provider for remodeling or repair and pays sales taxes on these taxable services; and

(iii). the services are separately itemized and identified in the billing to the customer.

(iv). if the remodeling or repairing is performed by the vendor either:

[a]. prior to the sale; or

[b]. after the sale but before the customer takes possession of the item;

[c]. then these would be costs of the vendor incurred to bring the product to market or make a product available to customers and would become part of the tax base.

(v). any services performed after the property is in the possession of the customer are taxable under R.S. 47:301(14).

iv. In all instances where an expense is required to be separately stated, the effect of combining the charge with another taxable item included in the *sales price* will subject the entire amount to sales tax.

v. R.S. 47:301(13)(b) provides an exclusion from *sales price* for the amounts of cash discounts and rebates that manufacturers and vendors of new vehicles offer to purchasers of vehicles.

(a). The exclusion will apply both to the discounts and rebates that are based on vehicle make and model, as well as to the discounts and rebates that are based on customer usage of manufacturer-issued credit cards.

(b). In order for this exclusion to apply, the customer must assign the discount or rebate to the selling dealer of the vehicle, so that the discount or rebate results directly in a reduction of the price to be paid for the vehicle.

(c). In cases where a customer accepts a rebate or discount in cash, and does not assign the amount to the selling dealer as a deduction from the listed retail price of the vehicle, the exclusion from *sales price* will not apply.

vi. R.S. 47:301(13)(c) excludes from taxable *sales price* the first \$50,000 paid for new farm equipment used in poultry production.

(a). This exclusion applies only to the price of property that is identifiable at the time of sale as being for use in poultry production.

(b). The exemption is available only to commercial producers who sell poultry or the products of poultry in commercial quantities.

(c). The portion of the sales price of any item of commercial farm equipment in excess of \$50,000 will be included in the taxable *sales price*.

vii. R.S. 47:301(13)(e) excludes the value of payments made directly to retail dealers by manufacturers

seeking a reduction in the price retail dealers charge for the manufacturers' products. These payments, often called *buy downs*, are applied by the retail dealer to the selling prices of the manufacturer's products. Retail dealers must collect the tax on the discounted *sales price* after applying the manufacturers' payments.

viii. In cases where all or a part of the purchase price of tangible personal property is paid to the selling dealer by the presentation of a coupon, the determination of the taxable *sales price* will depend on the type of coupon that is presented.

(a). Manufacturer's coupons that the selling dealer accepts from the customer and can be redeemed through a manufacturer or coupon agent are not allowed as a reduction of the *sales price*. Because the retailer's total compensation includes the amount paid by the customer after presenting the coupon and the amount reimbursed by the manufacturer for the coupon's face value, the tax is based on the actual selling price of the item before the discount for the coupon.

(b). The retailer's own coupons, which the selling dealer is unable to redeem through another party, provides a cash discount that can be excluded from the *sales price*. The sales tax on a sale involving this type of coupon will be computed on the price paid after an allowance for the selling dealer's coupon discount.

ix. R.S. 47:301(13)(f) provides that *sales price* excludes any consideration received, given, or paid for the performance of funeral directing services. The term *funeral directing services* is defined and further discussed at R.S. 47:301(10)(s).

(a). No exclusion from taxation is allowed on the sale, lease, or rental, of tangible personal property by funeral directors to customers, or

(b) on the purchase, lease, use, consumption, distribution, or storage for use of tangible personal property by funeral directors in connection with their performance of professional services.

b. R.S. 47:301(13)(d) provides that, in the case of the sale by a manufacturer of refinery gas or other petroleum byproducts that are to be used by the purchasers as other than feedstock, the taxable *sales price* shall be the greater of:

- i. the actual sales price of the byproducts, or
- ii. the average monthly spot market price per thousand cubic feet of natural gas delivered into pipelines in Louisiana, as reported by the Natural Gas Clearing House at the time of such sale.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, 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 Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to (225) 925-3855. All comments must be submitted by 4:30 p.m., Friday, August 24, 2001. A public hearing will be held on Tuesday, August 28, 2001, at 1:00 p.m. in the Department of Revenue Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Definition of Sales Price

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed regulation, which clarifies the definition of sales price for state sales tax purposes, will have no impact on the agency's costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation. The proposed rule reflects and incorporates statutes, departmental policies and court decisions consistent with current sales tax collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation would have no effect on the costs or economic benefits to vendors, manufacturers, or purchasers of tangible personal property in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0107#044

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Bond Commission

Fee Schedule and Fee Rebate
(LAC 71:III.301, 1301, and 1901)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 39:1405.1, notice is hereby given that the Bond Commission intends to amend LAC Title 71, Part III in accordance with R.S. 39:1405.1(B) as amended by Act 431 of the 2001 Regular Session of the Legislature. This Act, in effect, removes the rebate of excess fees attributable to private purpose bonds.

Title 71 TREASURY

Part III. Bond Commission

Chapter 3. Non-Traditional Tax-Exempt Projects

§301. General

A. - A.13.k. ...

14. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Bond Commission, LR 5:365 (November 1979), amended LR 9:254 (April 1983), LR 10:409 (May 1984), LR 10:948 (November 1984), LR 12:538 (August 1986), LR 15:630 (August 1989), LR 27:

Chapter 13. Disclosure

§1301. Disclosure of Agreements between Financial

Professionals for Negotiated Transactions

A. - B. ...

C. In order to insure the integrity of the structure of the financing team which the commission is charged with the responsibility of choosing and/or approving for handling bond issues, the commission hereby amends the following rule regarding agreements by and between such financial professionals as to the sale of such bonds.

C.1. - C.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Bond Commission, LR 20:320 (March 1994), amended LR 27:

Chapter 19. Fee Schedule

§1901. Fee Schedule

A. Pursuant to R.S. 30:1405.1(B), the treasurer is authorized after such appropriation, to rebate, on a pro rata basis, the amount of such excess fees attributable to general government agencies, as defined in the State Bond Commission's fee schedule, and otherwise in its rules and regulations, to the issuers of such general government issues paying closing fees for such issues in the fiscal year during which the fees were imposed. In no event, however, shall this rebate provision apply to application fees. The provisions of this rule apply to the Bond Commission fee schedule listed herein.

B. General Government Issues*

General Government Application Fee		\$100.00**
Closing Fees	Par	Percentage
First	\$500,000	0.065%
Next	\$4,500,000	0.060%
Next	\$5,000,000	0.055%
Next	\$10,000,000	0.050%
Next	\$30,000,000	0.045%
Next	\$50,000,000	0.035%
Certified Copy Fee		No charge for one copy \$5 for each additional copy

C. Private Purpose Bonds***

Private Purpose Application Fee		\$1,500.00**
Closing Fees	Par	Percentage
First	\$5,000,000	0.125%
Next	\$20,000,000	0.110%
Next	\$25,000,000	0.105%
Next	\$50,000,000	0.100%
Over	\$100,000,000	0.090%
Annual Agenda Subscription Fee		\$100.00 Private Sector \$50.00 Public Sector

* To be levied on debt instruments with maturities in excess of 12 months excluding budgetary loans made under the provisions of La. R.S. 39:745, 17:89, 33:9901.

**Application fee will be credited toward the closing fee when bonds are issued, sold or delivered.

*** Private purpose bonds are defined as bonds the proceeds of which are used primarily for the benefit of a private company or enterprise or the payment on such bonds, are paid from revenues derived from private enterprise or concern, regardless of the issuer or the tax exempt status of the debt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1405.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 27:

In compliance with Act 1183 of the 1999 Regular Session of the Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:372.

Interested parties may submit written comments to Sharon Perez, Director of the State Bond Commission, Department of the Treasury, P.O. Box 44154, Baton Rouge, LA 70804, or by facsimile to (225) 342-0064. All comments must be submitted by 4:30 p.m., August 24, 2001.

Ron J. Henson
First Assistant State Treasurer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fee Schedule and Fee Rebate

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These rules implement provisions of Act 431 of the 2001 Regular Session of the Legislature which removed the Bond Commission's authorization to rebate any excess collected fees back to non-governmental applicants. The fees are collected as self-generated revenues by the Bond Commission for its

operations and the excess over operating costs are rebated to the private purpose issuers as an Other Charges line item expenditure. The five (5) year average of excess private bond issue closing fees that have been rebated to private issuers is approximately \$262,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of the state or local government units to implement the adoption of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule will reduce the rebate of excess fees to issuers of private purpose bonds. The estimated impact for all issuers is approximately \$262,000 annually. The impact to each individual private issuer is estimated to be nominal as this represents and is considered a part of the cost of issuance and is funded at the time of the bond issuance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment by the adoption of this proposed rule.

Ron J. Henson
First Assistant State Treasurer
0107#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Wild Quadrupeds (LAC 76:V.119)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the Rule pertaining to participation in the Landowner Antlerless Deer Tag Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§119. Rules and Regulations for Participation in the Landowner Antlerless Deer Tag Program

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

A. 1.d. Small landowners in Iberville, Pointe Coupee and West Baton Rouge Parishes who do not qualify for the Deer Management Assistance Program but do have more than 20 acres but less than 500 acres of forested land may be allowed to participate in the Landowner Antlerless Deer Tag Program provided that the land shall be posted with Landowner Antlerless Deer Program signs erected at the same intervals as specified in the Deer Management Assistance Program.

A.2. - A.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2011 (September 2000), amended LR 27:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of

the Commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed rule to Mr. Tommy Prickett, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, September 6, 2001.

In accordance with Act#1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Dr. H. Jerry Stone
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Wild Quadrupeds**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation costs of the proposed rule to state government is estimated to be \$6,250. Local government units will not be affected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state will charge a \$25 administrative processing fee to landowners in Iberville, Pointe Coupee and West Baton Rouge Parishes that choose to participate in the Landowner Antlerless Deer Tag Program. It is anticipated that 250 landowners will enroll in this program during fiscal year 2001/2002. This will result in an estimated increase in state revenue collections of \$6,250. Local government unit revenues will not be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Landowners in Iberville, Pointe Coupee and West Baton Rouge Parishes enrolling in the Antlerless Deer Tag Program will be required to pay a \$25 administrative processing fee to receive deer tags associated with the program as determined by Deer Management Program personnel. They will also be required to maintain deer harvest and tag utilization records. Benefits will occur to landowners and recreational deer hunters from increased recreational hunting opportunities and the quality of deer harvested over time on these lands.

The Department does not anticipate any significant impacts on receipts or income as a result of the proposed rule amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

James L. Patton
Undersecretary
0107#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Legislation

LEGISLATION

State Legislature House of Representatives

House Concurrent Resolution Number 135
of the 2001 Regular Session
by Representative Bowler

Insurance Severability Provisions

A CONCURRENT RESOLUTION to amend the severability provisions of certain regulations adopted by the Department of Insurance.

WHEREAS, R.S. 49:969 authorizes the legislature to suspend, amend, or repeal any rule adopted by a state department agency, board, or commission; and

WHEREAS, within certain regulations adopted by the Department of Insurance, there are severability provisions which are contrary to the standard severability language provided by law for statutes; and

WHEREAS, such severability clauses may result in the unfair application of the regulations.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby amend, in their entirety, the following severability provisions in the rules adopted by the Department of Insurance, to wit: Section 23 of Regulation No. 33, Article XII of Regulation No. 35, Section 12 of Regulation No. 55, Section 3 of Regulation No. 56, and Section 64 of Regulation No. 64, all to read as follows: "If any provision of item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, item, or application."

BE IT FURTHER RESOLVED THAT A COPY OF THIS resolution shall be immediately transmitted to the *Louisiana Register*, which is authorized and requested to publish a summary of this Resolution within forty-five days of its signing by the presiding officers of the legislature.

Charles Dewitt
Speaker of the House
of Representatives
0107#050

John J. Hainkel, Jr.
President of the Senate

Administrative Code Update

CUMULATIVE: JANUARY – JUNE 2001

LAC Title	Part.Section	Effect	Location LR 27 Month Page	LAC Title	Part.Section	Effect	Location LR 27 Month Page		
4	I.Chapter 7	Adopted	Apr. 524	33	V.2214,2245,3001,3003	Amended	Mar. 290		
	VI.1720-1731	Adopted	Apr. 528		V.3011,3025,3105,3115,3203	Amended	Mar. 290		
	VI.1731-1735	Repealed	Apr. 528		V.3011,3025	Repromulgated	Apr. 513		
	VII.1199	Amended	Jan. 50		V.Chapters 38,40,41,43,49	Amended	May 706		
7	XV.327	Adopted	Mar. 280	V.3809,3813,3821,3823,3843	Amended	Mar. 290			
	XXI.143,147	Amended	Mar. 279	V.3845,4513,4901,4909	Amended	Mar. 290			
	XXI.Chapter 3	Amended	Feb. 182	V.Chapter 39	Repealed	May 706			
	XXIII.305	Repealed	Feb. 182	VI.Chapter 9	Adopted	Apr. 514			
	XXVII.128	Amended	June 815	VII.303,305,701,711-717,721,723	Repromulgated	May 703			
	XXIX.Chapter 15	Adopted	Jan. 31	VII.725,1109	Repromulgated	May 705			
10	XII.101-113	Adopted	May 688	VII.727,1109	Repromulgated	Jan. 38			
				VII.Chapter 105	Amended	June 829			
22	I.341-365	Adopted	Mar. 413	IX.1113,1123	Amended	Mar. 288			
	I.Chapter 23	Adopted	Mar. 409	IX.2331,2381,2383,2385,2769	Amended	Jan. 45			
	III.4703	Amended	Jan. 49	IX.2341	Repromulgated	Jan. 38			
28	I.103	Amended	Mar. 283	IX.2609	Amended	Feb. 191			
	I.901	Amended	Jan. 32	IX.2801-2809	Adopted	Jan. 45			
	I.901	Amended	Feb. 184	XI.103,1121	Amended	Apr. 520			
	I.901	Amended	Feb. 185	XI.Chapter 12	Adopted	Apr. 520			
	I.901	Amended	Feb. 185						
	I.901	Amended	Feb. 187						
	I.901	Amended	Feb. 187						
	I.901	Amended	May 694						
	I.901	Amended	May 695						
	I.901	Amended	May 694						
	I.901	Amended	June 815						
	I.903	Amended	Mar. 281						
	I.903	Amended	Mar. 282						
	I.903	Amended	June 820						
	I.903	Amended	June 821						
	I.903	Amended	June 821						
	I.903	Amended	June 825						
	I.903	Amended	June 827						
	I.903	Amended	June 828						
	IV.301,509,703,803,2103	Amended	Jan. 36						
	IV.301,509,903	Amended	Mar. 284						
	IV.703	Amended	May 702						
	V.109	Amended	Jan. 35						
	VI.107,307,311	Amended	Jan. 37						
	VI.209	Amended	Feb. 190						
	XXV.303	Amended	Feb. 187						
	XLIII.130,1431,1441,1449,2001	Amended	Jan. 34						
	32	III.101	Amended	May 721					
		III.317,323	Amended	May 720					
		III.321,701	Amended	May 722					
		III.323,601,701	Amended	May 721					
		III.701	Amended	May 719					
		III.701	Amended	May 720					
V.101		Amended	May 718						
V.325,601,701		Amended	May 718						
V.701		Amended	May 716						
V.317,325		Amended	May 717						
33		I.3917	Repromulgated	Jan. 38					
		III.223	Repromulgated	Feb. 192					
		III.2131	Amended	Feb. 192					
		III.2811	Repromulgated	Jan. 38					
		V.Chapters 1,3,9,11,13,15,22,30	Amended	May 706					
	V.101	Amended	June 857						
	V.105,109,110,322,529,535,537	Amended	Mar. 290						
	V.108,1109,5137	Amended	May 715						
	V.Chapter 4	Adopted	Mar. 284						
	V.517,5111	Amended	Mar. 284						
	V.903,915,917,919	Repealed	Jan. 41						
	V.905,907,913,1107,1111	Amended	Jan. 41						
	V.905,1109,1127,1531,1705	Amended	Mar. 290						
	V.1309	Repromulgated	Jan. 41						
	34	VII.307	Repromulgated	Jan. 49					
		35	XIII.Chapter 120	Adopted	May 689				
			37	XI.703-731	Amended	Apr. 561			
				XIII.Chapter 99	Adopted	Apr. 548			
			40	I.5157	Amended	Mar. 314			
42				VII.2933	Amended	Feb. 204			
				VII.2901	Amended	Jan. 58			
				IX.2901	Amended	Jan. 58			
IX.2939				Amended	Feb. 204				
XI.2405				Amended	Jan. 61				
XI.2407				Amended	Feb. 204				
XI.2417				Amended	Jan. 59				
XI.2901				Amended	Jan. 58				
XIII.2901				Amended	Jan. 60				
XIII.2933				Amended	Feb. 204				
46		I.1505		Amended	Mar. 280				
		XXI.Chapter 3		Amended	Feb. 183				
		XXXV.103,105,903,905,1303		Amended	Feb. 193				
		XXXV.1401-1409,1503		Amended	Feb. 193				
		XLV.Chapters 3 and 4	Amended	June 835					
		XLV.326, 345, 373, 375	Repealed	June 835					
		XLV.359, 401, 418	Repromulgated	June 835					
		XLV.377, 409, and Chapter 11	Repealed	June 835					
		XLVII.3331	Amended	Feb. 202					
		XLVII.3335	Amended	May 729					
		XLVII.3419	Amended	May 727					
		XLVII.Chapter 35	Amended	June 851					
		XLVII.Chapter 45	Amended	May 723					
		LVII.103,105,509,515,518,721	Amended	Apr. 563					
		LVII.915	Amended	Apr. 563					
LIX.703		Amended	May 735						
LXIII.201		Adopted	May 723						
LXIII.503	Amended	June 835							
LXXXVI.Chapter 1	Repromulgated	May 732							
LXXXV.Chapters 1-7	Amended	Feb. 196							
LXXXV.700,705	Amended	Jan. 51							
LXXXV.700, 1101-1123	Amended	Apr. 543							
48	I.9704	Adopted	Mar. 311						
	I.Chapter 171	Amended	Mar. 312						
	V.6303	Amended	Apr. 545						
	V.7001-7007	Amended	Jan. 52						
	V.Chapter 119	Adopted	Mar. 308						
	IX.107	Amended	June 854						

LAC Title	Part.Section	Effect	Location		LAC Title	Part.Section	Effect	Location		
			LR 27	Month Page				LR 27	Month Page	
55	I.2101	Adopted	Feb.	205	67	III.1235	Amended	May	736	
	I.Chapter 23	Adopted	Feb.	205		III.1235	Amended	June	866	
	I.2323	Adopted	Mar.	424		III.1503	Amended	Mar.	428	
	III.Chapter 1	Adopted	Jan.	62		III.1505	Repealed	Mar.	428	
	V.103	Amended	June	857		III.5383	Adopted	Mar.	428	
	IX.121	Amended	Mar.	422		III.1947, 1949, 1983, 1987	Amended	June	867	
	IX.1501,1513,1519,1531	Amended	Mar.	423		III.2013, 2015	Amended	June	867	
	IX.1507,1513	Repromulgated	Apr.	565		III.2529,2531	Amended	Jan.	81	
58	III.1501	Adopted	May	737		III.Chapter 52	Adopted	Mar.	429	
61	III.101	Adopted	Feb.	207		V.3503	Amended	May	735	
	III.1503	Amended	Mar.	428		VII.109	Amended	Feb.	210	
	III.1505	Repealed	Mar.	428		71	I.Chapter 9	Adopted	May	736
	III.2101	Amended	June	866			76	III.333	Adopted	June
	III.5383	Adopted	Mar.	428	V.101	Repealed		Feb.	214	
	V.309,703,907,1103,1307,1503	Amended	Mar.	424	V.501	Adopted		Feb.	214	
	V.2503,2705,2707	Amended	Mar.	424	VII.407	Amended		Feb.	215	
					VII.517	Adopted		Feb.	214	
				VII.517	Repromulgated	Mar.		431		

Potpourri

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examiners

The Board of Embalmers and Funeral Directors will give the National Board /Funeral Director and Embalmer/Funeral Director exams on Saturday, Sept. 8, 2001 at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

0107#061

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Fall and Winter Exam Dates

The Louisiana Board of Veterinary Medicine (Board) will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board Examination Committee (NBEC) as follows:

Test Window Dates	Deadline to Apply
November 19 through December 15, 2001	Tuesday, September 18, 2001

The Board will administer the state examination for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the State Board Examination (SBE) is the third Friday prior to exam date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

Applications for all examinations must be received on or before the deadline. Late applications will not be accepted. Application forms and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by visiting the website at www.lsbvm.org or may be requested by calling (225) 342-2176 or by email at lbvm@eatel.net.

Kimberly B. Barbier
Administrative Director

0107#062

POTPOURRI

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

Private Intermediate Care Facilities for the Mentally Retarded
New Reimbursement Rates

Effective for dates of service July 1, 2001 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement rates for private intermediate care facility services for the mentally retarded:

Level of Care	1-8 Beds	9-32 Beds	33+ Beds
	Per Diem Rate	Per Diem Rate	Per Diem Rate
2	\$120.51	\$98.03	\$87.12
3	\$130.04	\$105.60	\$93.74
4	\$134.88	\$113.83	\$100.94
5	\$141.66	\$122.78	\$108.77
6	\$145.08	\$132.51	\$126.85
7	\$158.83	\$156.37	\$136.12

It should be noted that these rates include a provider fee of \$10.93.

Inquiries regarding these rates may be directed to the Director of Institutional Reimbursement, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood
Secretary

0107#063

POTPOURRI

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

Private Nursing Facilities
New Reimbursement Rates

Effective for dates of service July 1, 2001 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement rates for private nursing facility services:

Level Of Care	Daily	Monthly
Skilled Nursing	\$83.82	\$2,549.53
Intermediate Care I	\$80.41	\$2,445.80
Intermediate Care II	\$80.41	\$2,445.80

Level Of Care	Daily	Monthly
Skilled Nursing - Infectious Disease	\$257.11	\$7,820.43
Skilled Nursing - Technology Dependent Care		\$245.01 \$7,452.39

POTPOURRI
Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

It should be noted that the above rates include a provider fee of \$5.56.

Please note that these rates will be revised upward upon approval of the Centers for Medicare and Medicaid Services (CMS) of an amendment to the Medicaid State Plan. The amendment will require basing nursing facility rates at the 62nd percentile for each cost category rather than the 60th percentile currently in effect. Upon approval, the revised rates will be implemented retroactive to July 1, 2001.

Inquiries regarding these rates may be directed to the Director of Institutional Reimbursement, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood
Secretary

0107#064

POTPOURRI
Department of Insurance
Office of the Commissioner

Viatical Settlements and License Requirements

The number of viatical related complaints is increasing here and in other states. As such, additional measures will be taken in an effort to educate the general public about the risks and potential problems associated with viatical settlements. It has come to our attention that some licensed life insurance agents may be participating in the sale/negotiation of life insurance policies by soliciting funds on behalf of viatical settlement providers.

This Bulletin is to advise that all Louisiana licensed life insurance agents must meet certain requirements before they can solicit funds on behalf of a Viatical Settlement Provider or negotiate in any manner, the sale of a life insurance policy.

Regulation 58 and sections 201 through 210.1 of the Louisiana Insurance Code, R.S. 22:1 et seq., require that:

- 1) you be currently licensed as a life insurance agent;
- 2) you complete and submit the "Application To Act as a Viatical Settlement Broker in the State of Louisiana;"
- 3) the application be approved by this Department; and
- 4) you must be appointed by a licensed Viatical Settlement Provider. Failure to abide by these requirements will result in administrative action against you.

J. Robert Wooley
Acting Commissioner of Insurance

0107#060

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
J. P. Boyter	Caddo Pine Island	S	Festervan	001	40049
J. P. Boyter	Caddo Pine Island	S	Thigpen Herold	004	45003
J. P. Boyter	Caddo Pine Island	S	Carter Henderson	007	47930
J. P. Boyter	Caddo Pine Island	S	Carter Henderson	004A	97687
J. P. Boyter	Caddo Pine Island	S	Thigpen-Herold	012	158712
J. P. Boyter	Caddo Pine Island	S	Thigpen	002	164497
J. P. Boyter	Caddo Pine Island	S	Thigpen	003	170430
J. P. Boyter	Caddo Pine Island	S	Thigpen SWD	004	170431
J. P. Boyter	Caddo Pine Island	S	Thigpen SWD	013	183331
J. P. Boyter	Caddo Pine Island	S	Boyter Fee	002	188188
J. P. Boyter	Caddo Pine Island	S	Carter-Henderson	009	192436
J. P. Boyter	Caddo Pine Island	S	Carter-Henderson	010	192437
J. P. Boyter	Caddo Pine Island	S	Ellerbe	009	193139
J. P. Boyter	Caddo Pine Island	S	Carter Henderson	011	193140
J. P. Boyter	Caddo Pine Island	S	Carter Henderson	012	193141
J. P. Boyter	Caddo Pine Island	S	Ellerbe	010	200185
J. P. Boyter	Caddo Pine Island	S	Ellerbe	011	200186
J. P. Boyter	Caddo Pine Island	S	Thigpen	005	200432
J. P. Boyter	Caddo Pine Island	S	Ellerbe	012	204588
J. P. Boyter	Caddo Pine Island	S	Carter-Henderson	013	204589
J. P. Boyter	Caddo Pine Island	S	Carter-Henderson	014	206898
J. P. Boyter	Caddo Pine Island	S	Carter-Henderson SWD	002	971550
J. P. Boyter	Caddo Pine Island	S	Carter Helpman	006	073950
J. P. Boyter	Caddo Pine Island	S	Ellerbe	001	081320
J. P. Boyter	Caddo Pine Island	S	Ellerbe	002	082128
J. P. Boyter	Caddo Pine Island	S	Ellerbe	004	084802
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	001	75666
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman SWD	001	970665
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	002	166093

J. P. Boyter	Caddo Pine Island	S	Carter-Helpman SWD	002	971549
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	003	73846
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	004	73561
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	008	74525
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	009	74700
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	012	102056
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	013	108608
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	014	109673
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	015	158709
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	016	158710
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	017	158711
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	018	163934
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	019	166094
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	020	168950
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	021	168949
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	022	170429
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	023	183061
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	024	199627
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	025	199628
J. P. Boyter	Caddo Pine Island	S	Carter-Helpman	026	199629
C. Q. Ellender	Wildcat	L	C Q Ellender	001	990440
Georgetown Oil Co., Inc.	Tullos Urania	M	Baldrige	004	023728 (30)
Griffin-Ryan Energy Co.	North Shongaloo-Red Rock	S	Pardee Co	001	46389
Griffin-Ryan Energy Co.	North Shongaloo-Red Rock	S	Sanders G	002	76685
Griffin-Ryan Energy Co.	North Shongaloo-Red Rock	S	PET SUA;Ivey Taylor	001	77395
Griffin-Ryan Energy Co.	North Shongaloo-Red Rock	S	Sanders F	001	187451
Griffin-Ryan Energy Co.	North Shongaloo-Red Rock	S	Sanders H	001	189398
Griffin-Ryan Energy Co.	North Shongaloo-Red Rock	S	Sanders G	001	189486
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	001	006153
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	002	06995
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	003	010767
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	004	025294
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	005	058224
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	006	058225
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	007	058226
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	008	058665
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	009	059617
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	010	119603
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson SWD	001	134713

Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	013	148211
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	014	154343
Griffin-Ryan Energy Co.	Caddo Pine Island	S	Tyson	015	154344
Kansas & Gulf Co.	Wildcat	S	Harp	009	003171
LHC Petroleum Corporation	West Delta Block 52	L	SL 977	001	151001
LHC Petroleum Corporation	West Delta Block 52	L	SL 977	002	173178
Charles E. Mayfield	Bellevue	S	Wadley-Files	002	152556
M. M. McClenaghan	Caddo Pine Island	S	M M Mc Clenaghan	001	990441
I. W. McKnight Production	Caddo Pine Island	S	Washington "B"	001	068857
T. W. Moore	Wildcat	S	Kelley	001	10920
Robert W. O'Meara	Napoleonville	L	Alex Simoneaux	001	51591
Risher Company, Inc.	Esperance Point	M	Campbell 7	004	062330
Risher Company, Inc.	Esperance Point	M	Campbell SWD	D-1	149428
Risher Company, Inc.	Esperance Point	M	Campbell 7	001	188600
Risher Company, Inc.	Esperance Point	M	Campbell 7	002	189243
Risher Company, Inc.	Esperance Point	M	Campbell 7A	003	192695
Vivian Oil Co.	Caddo Pine Island	S	Fee Land	004	990439

Philip N. Asprodites
Commissioner

0107#065

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 2 claims in the amount of \$3,871.39 were received for payment during the period June 1, 2001 - June 30, 2001. There were 2 claims paid and 0 claims denied.

Loran Coordinates of reported underwater obstructions are:

2947	8949	Plaquemine
2951	9319	Cameron

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

0107#066

CUMULATIVE INDEX

(Volume 27, Number 7)

2001	
Pages	Issue
1-167.....	January
168-266.....	February
267-491.....	March
492-671.....	April
672-794.....	May
795-986.....	June
987-1113.....	July
EOCExecutive Order	
PPMCPolicy and Procedure Memoranda	
ERCEmergency Rule	
RCRule	
NCNotice of Intent	
CCCommittee Report	
LCLegislation	
PCPotpourri	

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2000-December 2000, 158
 January 2001-March 2001, 658
 April 2001-June 2001, 1103

AGRICULTURE AND FORESTRY

Agriculture Commodities Commission

Fee payment amount and time, 815R

Agricultural and Environmental Sciences, Office of

Aerial pesticide applications, 989ER
 Pesticide restrictions, 674ER, 991ER
 Structural pest control, 571N

Advisory Commission on Pesticides

Restriction on application of pesticides, 279R, 869N

Boll Weevil Eradication Commission

Adjudicatory hearing, 161P, 260P
 Boll weevil eradication zones, 280R

Pesticides and Environmental Program

Icon pesticide use, 276ER

Commissioner, Office of the

Meat labeling, 503ER, 810ER, 870N
 Livestock registration, 673ER

Livestock Sanitary Board

Animal diseases, 4ER, 182R
 Brucellosis, 4ER, 182R

Forestry, Office of

Timber harvesting, 31R, 432N, 1005R
 Timber stumpage, 161P

Horticulture Commission

Annual quarantine listing 2001, 659P
 Landscape architect registration exam, 161P, 260P
 Retail florists
 exam, 260P
 requirements, 1063N
 Sweetpotato weevil quarantine, 499ER, 566N

Weights & Measures Commission

Agro-consumer services, 573N

CIVIL SERVICE

Civil Service Commission

Employee training requirements, probation,
 preferred reemployment, 574N
 Layoff rule changes, 870N
 Probationary period, 217N
 Rule amendments, 216N

ECONOMIC DEVELOPMENT

Architectural Examiners Board

Architectural & construction services
 combination, 575N
 Architectural engineers, 739N
 Limited liability companies, 280R
 Registration/Renewals, 878N

Auctioneers Licensing Board

Businesses & requirement of bonds, 235N

Examiners Board of Certified Shorthand Reporters

Examinations, 183R

Financial Institutions, Office of

Interest rate conversion fee, 161P
 Non-depository records retention, 739N
 Residential mortgage lending/continuing ed, 688R

Racing Commission

Account wagering, 5ER, 83N, 689R
 License necessary for entry, 677ER, 741N
 Source market commissions, 9ER, 83N,

Real Estate Commission

Broker application, 218N

Secretary, Office of

Tax credit program, 82N, 675ER, 740N
 Workforce development & training
 program, 504ER

EDUCATION

BESE Board

Bulletin 741/Louisiana Handbook for School
 Administrators
 Computer/technology education, 184R
 Corrective actions, 741N
 Curriculum standards, 1063N
 High school credit/college courses, 83N
 High school credit/elementary students, 185R
 High school graduation requirements, 84N
 Honors curriculum 602N
 LPEA policy, 32R, 85N, 219N, 815R, 880N,
 1065N
 La. school/district accountability 433N,
 1005R

Pre GED/skills option program 602N
 School approval standard/regulations 187R
 School performance scores 604N
 Written policies required of local school systems, 1072N

Bulletin 746/Louisiana Standards for State Certification of School Personnel
 Alternative certification program, 881N
 Criminal offense certificate suspension, revocation, reinstatement, 612N, 885N
 Educational technology facilitation & leadership 224N, 820R
 Elimination/ancillary program evaluator 225N, 821R
 K-12 certification structure 226N, 821R
 Practitioner teacher
 licensure policy, 745N
 program 229N, 825R
 School psychologists
 alternative certification, 281R
 certificate renewal, 611N
 School social worker certification 232N, 828R
 Special certification/K-8 foreign language, 282R
 Temporary employment permit 233N, 827R

Bulletin 1213/Minimum Standards for School Buses
 Used school buses, 187R

Bulletin 1566/Guidelines for Pupil Progression
 Adoption procedures, 747N
 LEAP high stakes testing policy placement, 434N, 1006R
 Pupil progression guidelines, 187R, 887N

Bulletin 1706/Regulations for Implementation of Children with Exceptionalities Act, 34R

Bulletin 1929/La. Accounting & Uniform Governmental Handbook, 890N

Bulletin 1934/Starting Points Preschool Regulations, 891N

Children with exceptionalities, 34R,
 Compliance handbook 2200, 575N
 Foreign language teachers special certificate, 282R
 High school credit, 83N, 694R
 High school graduation, 84N, 694R
 LEAP high stakes testing policy, 434N
 LPEAS policy, 32R, 85N, 695R
 Psychologists, certification of, 281R
 Regular placement of pupil progression, 434N
 Restructure of board committees, 283R
 Rules governing discussion, 440N, 1012R

Student Financial Assistance Commission
 Commission bylaws, 35R, 748N
 TOPS program, 234N, 508ER, 748N
 definitions & exceptional circumstances, 991ER, 1073N
 Eligibility, 174ER, 702R
 TOPS & ACT programs, 284R
 Scholarship and grants programs, 36R, 677ER, 749N

Tuition Trust Authority
 Authority bylaws, 190R, 750N
 START Program, 37R, 507ER, 679ER, 750N, 751N

ENVIRONMENTAL QUALITY

Environmental Assessment, Office of Environmental Planning Division

Asbestos in schools/state buildings, 751N
 Commercial hazardous waste, 284R
 Emissions
 control, 192R
 inventory/ozone, 260P
 organic compounds/Calcasieu, 1073N
 reduction credits banking, 1079N
 Gasoline storage vessels, 192R
 Hazardous waste
 Manifest, 41R
 RCRA X package, 93N, 290R, 513R
 Universal, 977P
 Inactive & abandoned sites, 514R
 Incorporation by reference, 753N
 Minimum offset ratio, 754N
 NCR radiology requirement & minor corrections, RPO27, 892N
 Ozone standard attainment nitrogen oxides control, 788P
 Permit procedure/new emission source, 756N
 Poydras-Verret & Ramas Swamp, 288R
 Privately owned sewage treatment, 45R,
 RCRA-X Accumulation time, 759N, 1014R
 Reengineering DEQ, 38R, 191R, 703R
 Response action contractor requirements, 520R
 Settlement agreement proposal public comment, 977P
 Small quantity generator revisions, 706R, 715R
 Waste tire clarifications, 442N, 829R

EXECUTIVE ORDERS

MJF 00-56C Carry Forward Bond Allocation-Louisiana Housing Finance Authority, 1EO
 MJF 00-57C State Rehabilitation Advisory Council, 1EO
 MJF 01-01C Department of Economic Development Reorganization Task Force, 168EO
 MJF 01-02C Continuation of Hiring Freeze, 169EO
 MJF 01-03C Additional Consensus Estimating Conferences, 170EO
 MJF 01-04C Department of Economic Development Reorganization Task Force (amends MJF 01-01), 171EO
 MJF 01-05C Bond Allocation-Louisiana Public Facilities Authority, 172EO
 MJF 01-06C Louisiana Women's Policy and Research Commission, 172EO
 MJF 01-07C Bond Allocation-Parish of DeSoto, 267EO
 MJF 01-08C Advisory Council/Disability Affairs, 267EO
 MJF 01-09CI-49 South Project Task Force, 268EO
 MJF 01-10C Expenditure Reduction Order, 268EO
 MJF 01-11C La. Emergency Operations Order, 269EO
 MJF 01-12C Chief Information Officer, 491EO

MJF 01-13C Information Technology Expenditure Freeze, 493EO
MJF 01-14C Year 2000 Compliant, 494EO
MJF 01-15C Bond Allocation Louisiana Local Government Environmental Facilities and Community Development Authority, 495EO
MJF 01-16C Bond Allocation Parish of Desoto, State of Louisiana, 495 EO
MJF 01-17C Bond Allocation Industrial Development Board of the City of New Orleans, Louisiana, Inc., 495EO
MJF 01-18C Bond Allocation Calcasieu Parish Public Trust Authority, 496EO
MJF 01-19C Louisiana Commission on Marriage and Family, 497EO
MJF 01-20C Bond Allocation/Rapides Finance Authority, 672EO
MJF 01-21C Bond Allocation/East Baton Rouge Mortgage Finance Authority, 799EO
MJF 01-22C Bond Allocation/Louisiana Housing Finance Authority, 799EO
MJF 01-23C Bond Allocation/Parish of Jefferson Home Mortgage Authority, 800EO
MJF 01-24C Bond Allocation/The Finance Authority of New Orleans, 800EO
MJF 01-25C Bond Allocation/Industrial Development Board of the City of New Orleans, 801EO
MJF 01-26C Executive Department Expenditure Reduction Order, 987EO
MJF 01-27C Bond Allocation Louisiana Local Governmental Environmental Facilities & Community, 987EO

GOVERNOR, OFFICE OF THE

Administration, Division of

Commissioner, Office of

Digital/Electronic signatures, 111N, 524R

General travel PPM 49, 802PPM

Community Development, Office of

HUD funded programs public hearing, 661P

Consolidated annual action plan FY 2002 proposal, availability of, 977P

Elderly Affairs, Office of

GOEA policy, 50R, 907N

Law Enforcement Commission

Peace officers, 49R, 992ER

Planning/Budget, Office of

Annual program evaluation reports, 761N

Repeal of planning/development district program, 763N

Property Assistance Agency

Inventoried property, 49R

State Employees Group Benefits Board

EPO-Exclusive provider organization

Eligibility, 10ER

Emergency room deductible non-EPO facility 239N, 716R

Glucometers, 240N, 717R

New employees-pre-existing condition limitation, 241N, 718R

Prescription drug benefits, 242N, 718R, 993ER

PPO-Preferred provider organization

Annual deductible, 243N, 719R

Eligibility, 15ER

Emergency room deductible 244N, 720R

Glucometers 244N, 720R

New employees-pre-existing condition limitation, 245N, 721R

Prescription drug benefits, 246N, 721R, 994ER

Stop loss threshold, 247N, 722R

Women's Services, Office of

Family violence program, 528R

Oil Spill Coordinator's Office

Restoration planning-T/V Westchester oil spill, 788P

HEALTH AND HOSPITALS

Citizens with Developmental Disabilities

Community & Family Support System

Cash subsidy, 909N

Programmatic standards, 448N, 854R

Dentistry Board

Licensure, 1084N

Dietetics & Nutrition Board

Licensure issuance & renewal, 1087N

Electrolysis Examiners Board

Definition of electrolysis technician, 193R

Licensure of electrologists and instructors, 194R

Embalmers/Funeral Director's Board

Examinations, 790P, 1105P

Management and Finance Office

Conrad state 20 program, 308R

Medical Examiners Board

Office-based surgical procedures 162P

Physicians and surgeons licensure, 116N, 835R

Subpoenas for hearing, 1088N

Nursing Board

Advanced PRN's, 132N, 723R

Alternatives to disciplinary proceedings, 727R

Continuing education, 136N, 729R

Denial or delay of licensure, 202R

Education programs, 851R

Psychologists Examiners Board

Examination, criterion for passing, 458N, 835R

Reciprocity, 248N, 723R

Public Health, Office of

Environmental Health Center

Public water system capacity development, 764N

Maternal/Child Health Section

Block grant federal funding, 790P

Genetic diseases-neonatal screening, 545R

Lead poisoning, 52R

Notice of hearing, 162P

Sanitary code
 general provisions, 1088N
 plumbing, 261P
 seafood inspection, 450N, 855R
 water supplies, 163P, 766N

Secretary, Office of

Community & Family Support System/Cash
 Subsidy, 909N

Memo of understanding, 451N

Community Supports and Services Bureau

Children's choice, 310R, 508ER, 616N, 1015R
Services waiver program, 137N, 174ER, 729R

Health Services Financing Bureau

Community care program, 139N, 547R

Dental services, 203R

Denture program, adult

 Reimbursement fee increase, 20ER, 680ER,
 772N

 Service locations, 249N, 730R

Disproportionate share hospital

 payment methodologies non-state
 hospitals, 175ER, 509ER, 680ER, 773N
 provider based rural health clinics, 995ER

Durable medical equipment

 Augmentative and alternative communication
 devices, 855R

 Communication devices, 455N

 E and K procedure codes, 53R,

 Enteral formulas, 54R,

 Flat fee amounts, 54R,

 Orthotics and prosthetics, 55R,

 Ostomy and urological, 55R, 510ER, 912N, 996ER

 Oxygen concentrators/glucometers, 56R,

 Parental and enteral supplies, 56R,

 Wheelchairs, 53R

 Z and E procedure codes, 56R,

Early and periodic screening (EPSDT), 20ER,
 140N, 203R

 Dental program reimbursement fee
 increase, 681ER, 774N

 Hearing aids, 277ER, 547R

Emergency ambulance transportation service

 Reimbursement increase, 996ER

Home health program

 Extended skilled nursing visits, 203R

 Rehabilitation services, 250N, 730R

Home health services

 Rehabilitation services, 21ER,

 Skilled nursing reimbursement, 22ER,
 203R

ICF/MR services

 Reimbursement increases, 1105P

Inpatient hospital services

 Extensions & reviews of length
 of stay, 456N, 856R

 Well baby care, 511ER, 913N, 997ER

Medicaid estate recovery program, 1091N

Medical transportation program

 Emergency ambulance services, 204R

 Non-emergency ambulance services, 204R, 999ER

Mental health rehabilitation program

 Reimbursement increase, 998ER

 Staffing definitions, 457N, 856R

Mentally retarded/developmentally
 disabled waiver

 Reimbursement increase, 998ER

Nursing homes-Alzheimer's, 311R

Private hospitals

 Outlier payments, 252N

Private intermediate care

 Hospital leave of absence, 57R,

Private nursing facilities

 Hospital leave of absence, 57R

 Professional services program/physician
 services, 176ER, 253N, 731R

 Public nursing facilities, 22ER, 251N,
 731R

 Reimbursement

 fee increase, 20ER,

 new rules, 1105P

 rates revised, 790P

Public Hospitals Reimbursement

 Methodology, 511ER, 999ER

 Upper payment limit, 682ER, 1000ER

Substance abuse clinics

 Termination of services, 57R,

Protective Services Bureau

 Protective services agency-policy, 312R

Speech Language Pathology & Audiology

Examiners Board

 Speech language pathology/audiology, 196R

Veterinary Medicine Board

 Board nominations, 162P

 Consent forms, 615N

 Drugs, 51R

 Examinations, 1105P

 Fee schedules, 162P

 Preceptorship program, 543R

INSURANCE, DEPARTMENT OF

Commissioner, Office of

 Regulation 76-privacy of consumer financial
 information, 548R

 Rule No. 9-prelicensing requirements,
 education advisory council, 617N, 1094N

 Rule No. 10-continuing education, 561R

 Viatical settlements & licensing, 1106P

**House of Representatives Committee on
Insurance**

 Office of Commissioner-regulation 76

 privacy of consumer financial
 information, 259CR, 482CR

 Severability provisions, 1102CR

LABOR, DEPARTMENT OF

Secretary, Office of the

 Drug free workplace & testing, 775N

Workers' Compensation Office

 Medical reimbursement schedule, 314R

LEGISLATURE

House of Representatives Committee on Insurance

Office of Commissioner-regulation 76
privacy of consumer financial
information, 259CR, 482CR
Severability provisions, 1102CR

Transportation, Highways & Public Works

Highways/engineeringCfiber optic permits,
259CR

Senate Committee on Transportation,

Highways & Public Works

Highways/engineeringCfiber optic permits,
259CR

NATURAL RESOURCES

Conservation, Office of

Class V motor vehicle waste disposal wells &
cesspool capacity, 619N
Orphaned oilfield sites, 163P, 261P, 483P,
662P, 790P, 979P, 1106P
Pipeline safety
Hazardous liquids, 914N
Natural gas, 927N
Pollution control-statewide order no. 29-B,
177ER, 666P, 810ER

Fishermen's Gear Compensation Fund

Loran/latitude/longitude coordinates, 263P,
487P, 666P, 792P, 981P

Injection and Mining Division

Disposal of E&P wastes, 141N
Statewide order No. 29-1
Hearing date, 792P
Statewide order No. 29-B
Hearing date, 792P
Legal notice/docket no. IMD 2001/02,
263P

Secretary, Office of

Barataria Basin land bridge shoreline
protection, 484P
Fisherman's gear compensation fund, 164P
Loran coordinates, 1107P

PORT COMMISSIONS

Examiners for the New Orleans/Baton Rouge Steamship Pilots, Board of

N.O./B.R. port pilots, 732R

PUBLIC SAFETY AND CORRECTIONS

Corrections Services

Adult inmates disciplinary rules, 413R

Crime Victims Services Bureau

Operations of bureau, 409R

Fire Marshal, Office of

National fire code, 793P, 857R
NFPA Codes, 947N

Gaming and Control Board

Code of conduct, 58R

Compulsive/problem gamblers, 204R

Licensing requirements, 61R

Operating standards, 780N

Liquefied Petroleum Gas Commission

Permits, 422R, 423R, 565R,

Private Investigator Examiners Board

Application, 779N

Apprentice licensing, 623N, 1016R

Continuing education, 623N, 1016R

Duties of executive secretary, 149N, 563R

Private Security Examiners Board

Alcohol restrictions, 459N, 735R

Firearm training, 779N

State Police, Office of

DNA samples of convicted offenders, 205R

Hazardous materials, 147N, 857R

Litter enforcement, 205R

Safety devices for trailers, 424R

Vehicle safety equipment, 62R

REVENUE AND TAXATION

Policy Services Division

Composite returns, 949N

Inventory tax credit, 951N

Native Americans income tax, 1096N

Sales Price, 1097N

Sales & use tax, definition of person,
461N, 785N

Secretary, Office of

Penalty waiver, 460N, 866R

Policy statements, 207R

Returns-payment & file dates, 785N

Signature alternatives/electronic filings, 624N,
1017R

Tax payment via EFT, 23ER, 254N

Severance Tax Division

Natural gas severance tax rate, 666P

Tax Commission

Ad valorem taxation, 424R

SOCIAL SERVICES

Community Services, Office of

Block grant, 487P

Foster children in care over 24 months,
percentage of Title IV-E, 1011ER

Notice of anticipated funds

La. emergency shelter grants, 164P

Reimbursement rates, residential, 24ER, 255N,
735R

Weatherization assistance public hearing, 487P

Family Support, Office of

Categorical eligibility for certain recipients,
813ER

Childcare program, wrap-around, 25ER

Enforcement services, tax refund offset, 81R

FITAP-income producing property, 256N,
736R

FITAP & KCSP recovery in administrative error, 428R
FITAP-vehicle exclusion, 463N, 866R,
Food stamps
certification of eligible households, 1017R
eligibility, 1001ER
semi-annual reporting, 464N, 867R
Income deductions and resource limits, 180ER
Teen pregnancy prevention program, 625N, 1018R
Temporary assistance to needy families, 488P
Wrap-around child care program, 429R, 683R, 952N

Licensing Bureau

Class B child residential care licensing standards, 961N

Rehabilitation Services, Office of

Management services/state licensing agency, 955N

Vocational rehab services/eligibility, 210R, 956N

Secretary, Office of the

Community & family support system/cash subsidy, 909N

TRANSPORTATION & DEVELOPMENT

Professional Engineers & Land Surveyors Board

Board revisions, 627N, 1019R

Sabine River Compact Administration

Meeting notice, spring, 793P

TREASURY

Credit card acceptance, 27ER, 736R

State Bond Commission

Fee schedule & rebate rule, 1100N

State Employees' Retirement System

Disability, 684ER, 787N

Teachers' Retirement System

ORP, 256N, 737R

WILDLIFE AND FISHERIES

Management and Finance

Recreational electronic licensing, 466N

Wildlife and Fisheries Commission

Boating traffic -St. Martin, 180ER, 258N, 814ER

Hunting, general & WMA, 467N, 1049R

King mackerel 2001, 28ER,

Nonresident hunting license fees, 214R

Nutria, recreational, harvest season 2001-02, 1003ER

Public oyster seed grounds, 214R, 431R

Oyster season extension, 278ER

Red snapper 2001, 29ER,

closure of commercial red snapper, 1002ER

Resident hunting season 2001/2002, 479N, 1061R

St. Martin/Lafayette fish and game preserve, 868R

Saltwater fishing license fee, 215R

Shark season closure, 278ER

Shrimp season inshore

spring closure 2001, 687ER, 1003ER

Shrimp season offshore

closure, 181ER

Waterfowl hunting zones, 481N, 1062R

Wild alligator harvest season 2001, 1004ER

Wild quadrupeds, 1101N