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Emergency Rules

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences**

Pesticide Restrictions (LAC 7:XXIII.143)

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

The Department of Agriculture and Forestry, Advisory Commission is amending these rules and regulations for the purpose of adding Wards 1, 3, 4, and 10 of Point Coupee Parish through the emergency process due to the planting of cotton in these Wards. The application of certain pesticides by commercial applicators between March 15 and September 15 in Point Coupee Parish, as well as other parishes, should be prohibited. The application of certain pesticides poses a threat to Louisiana cotton growers in these Wards. Even though the pesticides will not be applied to the cotton itself, but to the surrounding areas, the cotton is in a very delicate stage and if there is any drift from the application of these pesticides it will irreparably damage the cotton that has already been planted causing Louisiana cotton growers to lose potential production from their crops and greatly effecting the Louisiana cotton industry.

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

Title 7

Agriculture and Animals

Part XXIII. Advisory Commission on Pesticides

Chapter 1. Advisory Commission on Pesticides Subchapter I. Regulations Governing Application of Pesticides

§143. Restriction on Application of Certain Pesticides

A. - B.15. ...

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

- | | |
|----------------------|---|
| 1. Avoyelles | 14. Madison |
| 2. Bossier | 15. Morehouse |
| 3. Caddo | 16. Natchitoches |
| 4. Caldwell | 17. Ouachita |
| 5. Catahoula | 18. Pointe Coupee, Ward 1, 2, 3, 4 and 10 |
| 6. Claiborne, Ward 4 | 19. Rapides |
| 7. Concordia | 20. Red River |
| 8. DeSoto, Ward 7 | 21. Richland |
| 9. East Carroll | 22. St. Landry, Wards 1, 4, 5 and 6 |

- | | |
|-------------------------------|------------------|
| 10. Evangeline, Wards 1, 3, 5 | 23. Tensas |
| 11. Franklin | 24. Union |
| 12. Grant | 25. West Carroll |
| 13. LaSalle | 26. Winn, Ward 7 |

D. - M.2. ...

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

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

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on June 27, 2000 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on June 27, 2000 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is necessary.

Family Impact Statement

The proposed amendments to rules LAC 7:XXIII.143 regarding applications of certain pesticides in certain parishes 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.

Bob Odom
Commissioner

0006#005

DECLARATION OF EMERGENCY

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

Tuition Opportunity Program for Students
(TOPS)CQualified Summer Session
(LAC 28:IV.301, 509, 701, 703, 705, 805, 1903 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 Tuition Opportunity Program for Students (TOPS), R.S. 17:3042.1 and R.S. 17:3048.1.

The emergency rules are necessary to implement changes to the TOPS rules to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that 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 May 4, 2000, 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

*Academic Year (College)C*the two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. The two- and four-year college and university academic year does not include summer sessions nor intersessions.

*ACT ScoreC*the highest composite score achieved by the student on the official American College Test (including National, International, Military or Special test types) or an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT). ACT or SAT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

*Program Year (Non-academic Program)C*the schedule of terms during a year leading to a vocational or technical education certificate or diploma or a non-academic undergraduate degree for such programs offered by Eligible Colleges and Universities, beginning with the fall term, including the winter and spring terms, and concluding with the summer term or the equivalent schedule at an institution which operates on units other than terms.

*Qualified Summer SessionC*those summer sessions for which the student's institution certifies that:

1. the summer session is required in the student's degree program for graduation and the student enrolled for at least the minimum number of hours required for the degree program for the session; or
2. the student can complete his program's graduation requirements in the summer session; or
3. the course(s) taken during the summer session is required for graduation in the program in which the student is enrolled and is only offered during the summer session.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§509. American College Test (ACT) Testing Deadline

A. The student must take the official American College Test (including National, International, Military or Special test types) on or before the official April test date in the Academic Year (High School) in which the student graduates.

B. The student may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before the official April test date in the Academic Year (High School) in which the student graduates.

C. Final ACT Testing Deadline for Reduced Awards

1. Beginning with awards made for the 2000-2001 academic year and thereafter, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for either the TOPS Opportunity Award or for the TOPS-TECH Award, or if the student has not previously qualified for either the TOPS Opportunity Award or for the TOPS-TECH Award, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for the TOPS Performance Award or the TOPS Honors Award that is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted; however, when granting an award to an applicant whose qualifying test score is considered by the agency pursuant to the provisions of this Subparagraph, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. An applicant will not be allowed to use a test score obtained after high school graduation to upgrade a TOPS Opportunity Award to a TOPS Performance or Honors Award.

2. Students who fail to achieve an ACT or SAT qualifying score by July 1 after high school graduation shall not be considered for an award.

D. For 1997 and 1998 high school graduates who have not previously taken an ACT test, the ACT Score shall include those scores obtained from a national ACT test taken not later than the October 1998 national test date.

E. Students who graduated during the 1998-1999 school year who are otherwise qualified for a TOPS award and who obtained a qualifying score on the American College Test or the Scholastic Aptitude Test on an authorized testing date after the date of the student's graduation but prior to July 1, 1999 shall be considered to have met the requirements of §509.A and §509.B.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 26:

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

§701. General Provisions

A. - D.3. ...

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at an eligible college or university for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

2. The TOPS Performance Award provides a \$400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College) or by four terms or equivalent units in each program year (non-academic program), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

3. The TOPS Honors Award provides an \$800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College) or by four terms or equivalent units in each Program Year (Non-academic Program), in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, or §503.D or §509.C. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

4. ...

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU):

a. in an academic program receive an amount equal to the weighted average award amount, as defined in §301, plus any applicable stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (college). The stipend will be paid for each qualified summer session, semester, quarter, or equivalent unit for which tuition is paid.

Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS;

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the average award amount, as defined in §301, plus any applicable stipend, prorated by four terms or equivalent units in each program year (non-academic program). The stipend will be paid for each term or equivalent unit for which tuition is paid.

6. - 9. ...

F. Beginning with the 2000-2001 academic year (college) or program year (non-academic program) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$200 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. - 2. ...

G. Beginning with the 2000-2001 academic year (college) or program year (non-academic program) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of \$400 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. - 2. ...

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

HISTORICAL NOTE: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999) LR 26:67 (January 2000), LR 26:

§703. Establishing Eligibility

A. - A.3. ...

4. initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901, and:

a. - f. ...

g. all students must apply for an award by July 1 of the academic year (high school) in which they graduate to establish their initial qualification for an award, except as provided by §503.D. For a student entitled to defer acceptance of an award under §703.A.4.b. or d. that student must apply by July 1 of the academic year (high school) in which the student graduates, except as provided by section 503.D:

i. and, if enrolling in an academic program, must also apply by July 1 prior to the academic year (college) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B; or

ii. and, if enrolling in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, must also apply by the July 1 immediately after the start of the program year (non-academic program) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B.

A.5. - G.1. ...

2. A student who graduates from high school in less than four years or who enters an eligible college or university early admissions program prior to graduation from high school shall be considered a first-time freshman, as defined in §703, not earlier than the first semester following the academic year (high school) in which the student would have normally graduated had he or she not graduated early or entered an early admissions program. A student who graduates high school in less than four years or enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student normally would have graduated.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:632 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:67 (January 2000), LR 26:689 (April 2000), LR 26:

§705. Maintaining Eligibility

A. ...

1. have received less than four years or eight semesters of TOPS Award funds, provided that each two terms or equivalent units of enrollment in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree shall be the equivalent of a semester; and

2. - 6. ...

7. Minimum Academic Progress:

a. in an academic program at an eligible college or university, by the end of each academic year (college), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (college). These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions nor intersessions nor by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university, maintain steady academic progress as defined in §301 and by the end of the spring term, earn a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale. Unless granted an exception for cause by LASFAC, failure to maintain steady academic progress and to earn a

2.50 at the conclusion of the spring term will result in permanent cancellation of the recipient's eligibility; and

8. ...

9. maintain at an eligible college or university, by the end of the spring semester, quarter, or term, a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an opportunity award, if enrolled in an academic program; or

b. a 2.50, for continuing receipt of an opportunity award, if enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; and

c. a 3.00 for continuing receipt of either a performance or honors award; and

10. has not enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree after having received a vocational or technical education certificate or diploma, or a non-academic undergraduate degree;

11. has not received a baccalaureate degree;

12. has not been enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree for more than two years.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. - A.6. ...

7. has not received a vocational or technical education certificate or diploma, or a non-academic undergraduate degree, or a baccalaureate degree; and

8. has maintained steady academic progress as defined in §301; and

9. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale.

B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - F. ...

G Certification of Qualified Summer Session. The institution's submission of a payment request for tuition for a student's enrollment in a summer session will constitute certification of the student's eligibility for tuition payment for the summer session, the student's acknowledgment and

consent that each payment will consume one semester of eligibility, and the student's enrollment.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:

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

A. Initial Enrollment Requirement. Initially apply and enroll as a first-time freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901. Initial enrollment requirements specific to the TOPS are defined at §703.A.4 and for TOPS-TECH at §803.A.4.

B. ...

C. Less Than Full-time Attendance. The LASFAC will authorize awards under the TOPS opportunity, performance, honors and teachers awards, the TOPS-TECH award, and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

C.1. - E.11.c. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1916 (October 1998), LR 26:

Mark Riley
Assistant Executive Director

0006#006

DECLARATION OF EMERGENCY

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

EPO Plan of Benefits
(LAC 32:V.101-107, 301, 307-317,
325, 403, 501, 511-515, 601 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 the EPO Plan Document for the play year commencing July 1, 2000. Failure to adopt this rule on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, is effective July 1, 2000 and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first, revising and amending the EPO Plan of Benefits in the following particulars.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. Employee Coverage

1. - 2. ...

3. Effective Dates of Coverage, New Employee, Transferring Employee. Coverage for each employee who completes the applicable enrollment form and agrees to make the required payroll contributions to his participant employer is to be effective as follows:

a. - b. ...

c. Employee coverage will not become effective unless the employee completes an enrollment form within 30 days following the date of employment. An employee who completes an enrollment form after 30 days following the date of employment will be considered an overdue applicant.

d. An employee that transfers employment to another participating employer must complete a Transfer Form within 30 days following the date of transfer in order to maintain coverage without interruption. An employee who completes a Transfer Form after 30 days following the date of transfer will be considered an overdue applicant.

A.4. - G. ...

H. Medicare Risk HMO Option for Retirees (Effective July 1, 1999)

H.1. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1804 (October 1999), LR 26:

§103. Continued Coverage

A. - B. ...

C. Surviving Dependents/Spouse. The provisions of this section are applicable to surviving dependents who elect to continue coverage following the death of an employee or retiree. On or after July 1, 1999, eligibility ceases for a covered person who becomes eligible for coverage in a group health plan other than Medicare. Coverage under the group health plan may be subject to HIPAA.

1. Benefits under the plan for covered dependents of a deceased covered employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurred unless the surviving covered dependents elect to continue coverage.

a. ...

b. The surviving unmarried (never married) children of an employee or retiree may continue coverage until they are eligible for coverage under a group health plan other than Medicare, or until attainment of the termination age for children, whichever occurs first;

C.1.c. - D. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer shall pay the employees share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

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 25:1806 (October 1999), LR 26:

§107. Change of Classification

A. Adding or Deleting Dependents. The plan member must notify the program whenever a dependent is added to, or deleted from, the plan member's coverage that would result in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1809 (October 1999), LR 26:

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses are Incurred by a Covered Person

A. Eligible expenses are the charges incurred for the following items of service and supply. These charges are subject to the applicable deductibles, limits of the Fee Schedule, Schedule of Benefits, exclusions and other provisions of the Plan. A charge is incurred on the date that the service or supply is performed or furnished. Eligible expenses are:

1. - 8. ...

9. Services of licensed speech therapist when prescribed by a physician and pre-approved through outpatient procedure certification for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurological disease;

10. - 11c. ...

d. Accidental injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

12. Durable Medical Equipment, subject to the lifetime maximum payment limitation as listed in the Schedule of Benefits [The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item].

13. - 18. ...

19. Acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. ...

21. Services of a Physical Therapist and Occupational Therapist licensed by the state in which the services are rendered when:

a. - e. ...

f. approved through case management when rendered in the home;

22. - 23. ...

24. Not subject to the annual deductible:

a. ...

b. mammographic examinations performed according to the following schedule:

i. One mammogram during the five-year period a person is 35-39 years of age;

24.b.ii. - 26. ...

27. Services rendered by the following, when billed by the supervising physician:

a. Perfusionists and Registered Nurse Assistants assisting in the operating room;

b. Physician's Assistants and Registered Nurse Practitioners.

28. - 32. ...

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 25:1810 (October 1999), LR 26:

§307. Utilization Review/Pre-Admission Certification, Continued Stay Review

A. - A.2. ...

B. For a routine vaginal delivery, PAC is not required for a stay of 2 days or less. If the mother's stay exceeds or is expected to exceed 2 days, PAC is required within 24 hours after the delivery or the date on which any complications arose, whichever is applicable. If the baby's stay exceeds that of the mother, PAC is required within 72 hours of the mother's discharge and a separate pre-certification number must be obtained for the baby. In the case of a Caesarian Section, PAC is required if the mother's stay exceeds or is expected to exceed 4 days;

C. No benefits will be paid under the Plan:

1. ...

2. unless PAC is requested within two business days following admission in the case of an emergency;

C.3. - D. ...

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 25:1812 (October 1999), LR 26:

§309. Outpatient Procedure Certification

A. - A.2. ...

B. OPC is required on the following procedures:

1. - 6. ...

7. Speech Therapy;

C. No benefits will be paid for the facility fee in connection with outpatient procedures, or the facility and professional fee in connection with speech therapy:

C.1. - D. ...

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 25:1812 (October 1999), LR 26:

§311. Case Management

A. - E.8. ...

9. Physical and occupational therapy rendered in a home setting.

F. - H. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1812 (October 1999), LR 26:

§313. Dental Surgical Benefits

A. ...

B. Eligible expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, and pathology services, and facility charges are subject to the deductible, co-insurance and the maximum benefit provisions of the Plan.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), LR 26:

§315. Medicare Reduction

A. ...

B. Retiree 100-Medicare COB. Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare, both parts A and B, may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare or within 30 days of retirement if already eligible for Medicare and at the annual open enrollment.

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this Plan for:

1. - 24. ...

25. repealed

26. - 40. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), LR 26:488 (March 2000), LR 26:

§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.

C. ...

1. Upon presentation of the group benefits program health benefits identification card at a network pharmacy, the Plan Member will be responsible for copayment of \$6 per prescription when a generic drug is dispensed, \$20 per prescription when a preferred brand name drug is dispensed, and \$30 per prescription when a non-preferred brand name drug is dispensed. The copayment cannot exceed the actual charge by the pharmacy for the drug.

2. - 5.c. ...

6. Acute or Non-maintenance DrugCa covered drug other than a maintenance drug as define herein.

7. Brand DrugCthe trademark name of a drug approved by the U. S. Food and Drug Administration.

8. Generic DrugCa chemically equivalent copy of a brand name drug.

9. Maintenance DrugCcovered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition

10. Non-Preferred Brand DrugCa brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the Pharmacy and Therapeutic Committee.

11. Pharmacy and Therapeutic CommitteeCa committee created by the program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a Preferred Brand Drug or a Non-Preferred Brand Drug. In making these determinations, the Pharmacy and Therapeutic Committee relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

12. Preferred Brand DrugCa brand name drug that has received a classification of Preferred Brand from the Pharmacy and Therapeutic Committee based on the following criteria:

a. clinical uniqueness of the medication;

b. positive efficacy profile;

c. good side effect, safety, and drug interaction profile;

d. positive quality of the implications;

e. clinical experience with the medication; and

f. cost (only considered when clinical parameters are equal to other products in its class).

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 26:

Chapter 4. Uniform Provisions

§403. Properly Submitted Claim Form

A. For plan reimbursements, all bills must show:

1. employee's name;

2. name of patient;

3. name, address, and telephone number of the provider of care;

4. diagnosis;

5. type of services rendered, with diagnosis and/or procedure codes;

6. date of service;
7. charges;
8. employee's member number;
9. provider Tax Identification number;
10. medicare explanation of benefits, if applicable.

B. The program can require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish the requested information within 90 days of the request will constitute reason for the denial of benefits.

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 25:1816 (October 1999), LR 26:

Chapter 5. Claims Review and Appeal

§501. Claims Review Procedures and Appeals

A. ...

B. The request for review must be directed to Attention: Appeals and Grievances within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review, pharmacy benefit or mental health contractors.

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 25:1818 (October 1999), LR 26:

§511. Subpoena of Witnesses; Production of Documents

A. - B. ...

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas must contain the names of the witnesses and a statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoena deposits with the program a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence must contain a description of the items to be produced in sufficient detail for identification and must contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

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 25:1819 (October 1999), LR 26:

§513. Appeals Decisions

A. ...

B. Appeals Heard by Referee: At the conclusion of the hearing, the referee will take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on

the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the committee for review.

C. The committee may adopt or reject the recommended decision. In the case of adoption, the referee's decision becomes the decision of the committee. In the case of rejection, the committee will render its decision, which will include a statement of reasons for disagreement with the referee's decision. The decision of the committee will be final. A copy will be mailed by certified mail to the covered person and any representative thereof.

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 25:1819 (October 1999), LR 26:

§515. Rehearing

A. - B. ...

C. The request for rehearing must be filed with the program, Attention: Appeals and Grievances on or before 30 calendar days after the mailing of the appeal decision of the committee. The request will be deemed filed on the date it is received in the office of the program.

D. ...

E. When the committee grants a rehearing, an order will be issued setting forth the grounds. A copy of the order will be sent, along with notice of the time and place fixed for the rehearing, to the appealing party and any representative by certified mail.

F. - 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 25:1819 (October 1999), LR 26:

Chapter 6. Definitions

§601. Definitions

*Acute or Non-maintenance Drug*Ca covered drug other than a maintenance drug as define herein.

*Brand Drug*the trademark name of a drug approved by the U. S. Food and Drug Administration.

*Children*C

1. any legitimate, duly acknowledged, or legally adopted Children of the Employee and/or the Employee's legal spouse dependent upon the Employee for support;

2. - 4. ...

*Generic Drug*Ca chemically equivalent copy of a brand name drug.

*Maintenance Drug*Ccovered drug that is determined by the program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition.

Non-Preferred Brand Drug Ca brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the Pharmacy and Therapeutic Committee.

Pharmacy and Therapeutic Committee Ca committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a Preferred Brand Drug or a Non-Preferred Brand Drug. In making these determinations, the Pharmacy and Therapeutic Committee relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

Preferred Brand Drug Ca brand name drug that has received a classification of Preferred Brand from the Pharmacy and Therapeutic Committee based on the following criteria:

1. clinical uniqueness of the medication;
2. positive efficacy profile;
3. good side effect, safety, and drug interaction profile;
4. positive quality of the implications;
5. clinical experience with the medication; and
6. cost (only considered when clinical parameters are equal to other products in its class).

Well-Baby Care Croutine care to a well newborn infant from the date of birth until age 1. This includes routine physical examinations, active immunizations, check-ups, and office visits to a physician and billed by that physician, except for the Treatment and/or diagnosis of a specific illness. All other health services coded with wellness procedures and diagnosis codes are excluded.

Well-Child Care Croutine physical examinations, active immunizations, check-ups and office visits to a physician, and billed by a health care provider that has entered into a contract with the State Employees Benefits Program, except for the Treatment and/or diagnosis of a specific illness, from age 1 to age 16. All other health services coded with wellness procedures and diagnosis codes are excluded.

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 25:1820 (October 1999), LR 26:

Chapter 7. Schedule of Benefits C EPO

§701 Comprehensive Medical Benefits

A. - A.3. ...

- | | |
|--|-----------------------------|
| 4. Prescription Drugs
(no deductible) | 50% non-Network in
state |
|--|-----------------------------|

\$6 copayment for generic drugs, \$20 copayment for preferred brand name drugs, and \$30 copayment for non-preferred brand name drugs purchased at a network pharmacy	80% non-Network out of state
--	------------------------------

B. - E. ...

F. Physical /Occupational Therapy ¹	See % payable after deductible	\$15 copay for outpatient services
--	-----------------------------------	--

Speech Therapy ²	See % payable after deductible	\$15 copay for outpatient services
-----------------------------	-----------------------------------	--

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 25:1820 (October 1999), LR 26:488 (March 2000), LR 26:

1 ...

²Subject to Case Management Guideline if rendered in a home setting

³Subject to Outpatient Procedure Certification Guidelines

A. Kip Wall
Interim Chief Executive Officer

0006#115

DECLARATION OF EMERGENCY

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

EPO Plan of Benefits C Accidental Injury
(LAC 32:V.601)

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 amend the EPO Plan Document to define the term *Accidental Injury* as used therein. Failure to adopt this rule on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, adding the definition of the term *Accidental Injury* in EPO Plan Document, is effective June 1, 2000, and shall remain in effect for 30 days, until July 1, 2000.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider Organization

(EPO)—Plan of Benefits

Chapter 6. Definitions

§601. Definitions

Accidental Injury—means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from and external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

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 25:1820 (October 1999), LR 26:

A. Kip Wall
Chief Executive Officer

0006#111

DECLARATION OF EMERGENCY

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

EPO Plan of Benefits CF.M.L.A. Leave
(LAC 32:V.103)

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 amend the EPO Plan of Benefits to provide for continuation of coverage for an employee on approved F.M.L.A. leave. This action is necessary to implement requirements of the federal Family and Medical Leave Act (F.M.L.A.), and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

Accordingly, the following Emergency Rule, adding Subsection E to Section 103 of Louisiana Administrative Code, Title 32, Part V, the EPO Plan of Benefits, is effective May 31, 2000, and shall remain in effect for 31 days, until July 1, 2000.

**Title 32
EMPLOYEE BENEFITS
Part V. Exclusive Provider Organization
(EPO)—Plan of Benefits**

Chapter 1. Eligibility

§103. Continued Coverage

A. - D.3. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer may pay the employee's share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employer.

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 25:1806 (October 1999), LR 26:

A. Kip Wall
Chief Executive Officer

0006#114

DECLARATION OF EMERGENCY

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

PPO Plan of Benefits
(LAC 32:III.101-107, 301, 307-317,
325, 403, 501, 511-515, 601 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 the PPO Plan Document for the play year commencing July 1, 2000. Failure to adopt this rule on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, is effective July 1, 2000 and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first, revising and amending the PPO Plan of Benefits in the following particulars.

**Title 32
EMPLOYEE BENEFITS**

Part III. Exclusive Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. Employee Coverage

1. - 2. ...

3. Effective Dates of Coverage, New Employee, Transferring Employee. Coverage for each employee who completes the applicable enrollment form and agrees to make the required payroll contributions to his Participant Employer is to be effective as follows:

a. - b. ...

c. Employee coverage will not become effective unless the employee completes an enrollment form within 30 days following the date of employment. An employee who completes an enrollment form after 30 days following the date of employment will be considered an overdue applicant;

d. An employee that transfers employment to another participating employer must complete a Transfer Form within 30 days following the date of transfer in order to maintain coverage without interruption. An employee who completes a Transfer Form after 30 days following the date of transfer will be considered an overdue applicant.

A.4. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1825 (October 1999), LR 26:

§103. Continued Coverage

A. - B. ...

C. Surviving Dependents/Spouse. The provisions of this section are applicable to surviving dependents who elect to continue coverage following the death of an employee or retiree. On or after July 1, 1999, eligibility ceases for a covered person who becomes eligible for coverage in a group health plan other than Medicare. Coverage under the group health plan may be subject to HIPAA.

1. Benefits under the plan for covered dependents of a deceased covered employee or retiree will terminate on the last day of the month in which the employee's or retiree's death occurred unless the surviving covered dependents elect to continue coverage.

a. ...

b. The surviving unmarried (never married) children of an employee or retiree may continue coverage until they are eligible for coverage under a group health plan other than Medicare, or until attainment of the termination age for children, whichever occurs first;

C.1.c - D.3. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer shall pay the employee's share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

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 25:1827 (October 1999), LR 26:

§107. Change of Classification

A. Adding or Deleting Dependents. The plan member must notify the program whenever a dependent is added to, or deleted from, the plan member's coverage that would result in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1829 (October 1999), LR 26:

Chapter 3. Medical Benefits

§301. Medical Benefits apply when eligible expenses are incurred by a Covered Person.

A. Eligible expenses are the charges incurred for the following items of service and supply. These charges are subject to the applicable deductibles, limits of the Fee Schedule, Schedule of Benefits, exclusions and other provisions of the plan. A charge is incurred on the date that the service or supply is performed or furnished. Eligible expenses are:

1. - 8.1....

9. Services of licensed speech therapist when prescribed by a physician and pre-approved through outpatient procedure certification for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy,

accidental injuries or other similar structural or neurological disease;

10. - 11.c ...

d. Accidental injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

12. Durable Medical Equipment, subject to the lifetime maximum payment limitation as listed in the Schedule of Benefits; [The program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item.]

13. - 18. ...

19. Acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. ...

21. Services of a Physical Therapist and Occupational Therapist licensed by the state in which the services are rendered when:

a. - e. ...

f. Approved through case management when rendered in the home;

22. - 23.c.iii. ...

24. Not subject to the annual deductible:

a. ...

b. mammographic examinations performed according to the following schedule:

i. one mammogram during the five-year period a person is 35-39 years of age;

ii. - iii. ...

c. ...

25. - 26. ...

27. Services rendered by the following, when billed by the supervising physician:

a. Perfusionists and Registered Nurse Assistants assisting in the operating room;

b. Physician's Assistants and Registered Nurse Practitioners;

28. - 32. ...

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 25:1830 (October 1999), LR 26:

§307. Utilization ReviewC pre-admission Certification, Continued Stay Review

A. - A.2. ...

B. For a routine vaginal delivery, PAC is not required for a stay of 2 days or less. If the mother's stay exceeds or is expected to exceed 2 days, PAC is required within 24 hours after the delivery or the date on which any complications arose, whichever is applicable. If the baby's stay exceeds that of the mother, PAC is required within 72 hours of the mother's discharge and a separate pre-certification number must be obtained for the baby. In the case of a Caesarean

Section, PAC is required if the mother's stay exceeds or is expected to exceed 4 days;

C. No benefits will be paid under the Plan:

- 1. ...
- 2. unless PAC is requested within two business days following admission in the case of an emergency;

C.3. - D. ...

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 25:1832 (October 1999), LR 26:

§309. Outpatient Procedure Certification

A. OPC certifies that certain outpatient procedures and therapies are Medically Necessary. OPC is required on the following procedures:

- 1. - 6. ...
- 7. Speech Therapy;

C. No benefits will be paid for the facility fee in connection with outpatient procedures, or the facility and professional fee in connection with speech therapy:

C.1. - D. ...

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 25:1832 (October 1999), LR 26:

§311. Case Management

A. - E.8. ...

9. Physical and occupational therapy rendered in a home setting.

F. - H. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1833 (October 1999), LR 26:

§313. Dental Surgical Benefits

A. ...

B. Eligible expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, and pathology services, and facility charges are subject to the deductible, co-insurance and the maximum benefit provisions of the Plan.

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 25:1833 (October 1999), LR 26:

§315. Medicare Reduction

A. ...

B. Retiree 100-Medicare COB - Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare, both parts A and B, may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare or within 30 days of retirement if already eligible for Medicare and at the annual open enrollment.

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 25:1833 (October 1999), LR 26:

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this Plan for:

- 1. - 24. ...
- 25. repealed
- 26. - 40. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1834 (October 1999), LR 26:488 (March 2000), LR 26:

§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;

C. ...

1. Upon presentation of the group benefits program health benefits identification card at a network pharmacy, the plan member will be responsible for copayment of \$6 per prescription when a generic drug is dispensed, \$20 per prescription when a preferred brand name drug is dispensed, and \$30 per prescription when a non-preferred brand name drug is dispensed. The copayment cannot exceed the actual charge by the pharmacy for the drug.

2. - 5.c. ...

6. Acute or Non-maintenance DrugCa covered drug other than a maintenance drug as define herein.

7. Brand DrugCthe trademark name of a drug approved by the U. S. Food and Drug Administration.

8. Generic DrugCa chemically equivalent copy of a brand name drug.

9. Maintenance DrugCcovered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition.

10. Non-Preferred Brand DrugCa brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the Pharmacy and Therapeutic Committee.

11. Pharmacy and Therapeutic CommitteeCa committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a Preferred Brand Drug or a Non-Preferred Brand Drug. In making these determinations, the Pharmacy and Therapeutic Committee relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

12. Preferred Brand DrugCa brand name drug that has received a classification of Preferred Brand from the Pharmacy and Therapeutic Committee based on the following criteria:

- a. clinical uniqueness of the medication;
- b. positive efficacy profile;
- c. good side effect, safety, and drug interaction profile;
- d. positive quality of the implications;
- e. clinical experience with the medication; and
- f. cost (only considered when clinical parameters are equal to other products in its class).

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1835 (October 1999), LR 26:

Chapter 4. Uniform Provisions

§403. Properly Submitted Claim Form

- A. For Plan reimbursements, all bills must show:
 1. employee's name;
 2. name of patient;
 3. name, address, and telephone number of the provider of care;
 4. diagnosis;
 5. type of services rendered, with diagnosis and/or procedure codes;
 6. date of service;
 7. charges;
 8. employee's member number;
 9. provider Tax Identification number;
 10. Medicare explanation of benefits, if applicable.

B. The Program can require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish the requested information within 90 days of the request will constitute reason for the denial of benefits.

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 25:1836 (October 1999), LR 26:

Chapter 5. Claims Review and Appeal

§501. Claims Review Procedures and Appeals

- A. ...
- B. The request for review must be directed to Attention: Appeals and Grievances within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review, pharmacy benefit or mental health contractors.

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 25:1838 (October 1999), LR 26:

§511. Subpoena of Witnesses; Production of Documents

- A. - B. ...
- C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the Program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas must contain the names of the witnesses and a

statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoena deposits with the Program a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the Program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence must contain a description of the items to be produced in sufficient detail for identification and must contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

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 25:1839 (October 1999), LR 26:

§513. Appeals Decisions

- A. ...
- B. Appeals Heard by Referee. At the conclusion of the hearing, the referee will take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the Committee for review.

C. The Committee may adopt or reject the recommended decision. In the case of adoption, the referee's decision becomes the decision of the committee. In the case of rejection, the committee will render its decision, which will include a statement of reasons for disagreement with the referee's decision. The decision of the committee will be final. A copy will be mailed by certified mail to the covered person and any representative thereof.

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 25:1839 (October 1999), LR 26:

§515. Rehearing

- A. - B. ...
- C. The request for rehearing must be filed with the program, Attention: Appeals and Grievances on or before 30 calendar days after the mailing of the appeal decision of the committee. The request will be deemed filed on the date it is received in the office of the program.

D. ...

E. When the committee grants a rehearing, an order will be issued setting forth the grounds. A copy of the order will be sent, along with notice of the time and place fixed for the rehearing, to the appealing party and any representative by certified mail.

F. - 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 25:1840 (October 1999), LR 26:

Chapter 6. Definitions

§601. Definitions

Acute or Non-maintenance Drug Ca covered drug other than a maintenance drug as define herein.

Brand Drug Cthe trademark name of a drug approved by the U. S. Food and Drug Administration.

Children C

1. any legitimate, duly acknowledged, or legally adopted Children of the Employee and/or the Employee's legal spouse dependent upon the Employee for support;

2. - 4. ...

Generic Drug Ca chemically equivalent copy of a "brand name" drug.

Maintenance Drug Ccovered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition.

Non-Preferred Brand Drug Ca brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the Pharmacy and Therapeutic Committee.

Pharmacy and Therapeutic Committee Ca committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a Preferred Brand Drug or a Non-Preferred Brand Drug. In making these determinations, the Pharmacy and Therapeutic Committee relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

Preferred Brand Drug Ca brand name drug that has received a classification of Preferred Brand from the Pharmacy and Therapeutic Committee based on the following criteria:

1. clinical uniqueness of the medication;
2. positive efficacy profile;
3. good side effect, safety, and drug interaction profile;
4. positive quality of the implications;
5. clinical experience with the medication; and
6. cost (only considered when clinical parameters are equal to other products in its class).

Well-Baby Care Croutine care to a well newborn infant from the date of birth until age 1. This includes routine physical examinations, active immunizations, check-ups, and office visits to a physician and billed by that physician, except for the treatment and/or diagnosis of a specific illness. All other health services coded with wellness procedures and diagnosis codes are excluded.

Well-Child Care Croutine physical examinations, active immunizations, check-ups and office visits to a Physician, and billed by a health care provider that has entered into a contract with the State Employees Benefits Program, except for the treatment and/or diagnosis of a specific illness, from age 1 to age 16. All other health services coded with wellness procedures and diagnosis codes are excluded.

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 25:1840 (October 1999), LR 26:

Chapter 7. Schedule of Benefits C PPO §701 Comprehensive Medical Benefits

A.1. - A.3. ...

4. Prescription Drugs

(No deductible)	50% non-Network in state
\$8 copayment for generic drugs,	80% non-Network for out of
\$25 copayment preferred brand state	
name drugs, and \$40 copayment for	
non-preferred brand name drugs	
purchased at a network pharmacy	

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), LR 26:488 (March 2000), LR 26:

A. Kip Wall
Interim Chief Executive Officer

0006#116

DECLARATION OF EMERGENCY

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

PPO Plan of Benefits C Accidental Injury
(LAC 32:III.601)

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 amend the PPO Plan of Benefits to define the term *Accidental Injury* as used therein. Failure to adopt this rule on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, adding the definition of the term *Accidental Injury* in PPO Plan of Benefits, is effective June 1, 2000, and shall remain in effect for 30 days, until July 1, 2000.

Title 32
EMPLOYEE BENEFITS
Part III. Preferred Provider Organization
(PPO)—Plan of Benefits

Chapter 6. Definitions
§601. Definitions

* * *

Accidental Injury Ca condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from and external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

* * *

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 25:1840 (October 1999), LR 26:

A. Kip Wall
Chief Executive Officer

0006#112

DECLARATION OF EMERGENCY

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

PPO Plan of Benefits CF.M.L.A. Leave
(LAC 32:V.103)

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 amend the PPO Plan of Benefits to provide for continuation of coverage for an employee on approved F.M.L.A. leave. This action is necessary to implement requirements of the federal Family and Medical Leave Act (F.M.L.A.), and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

Accordingly, the following Emergency Rule, adding Subsection E to Section 103 of Louisiana Administrative Code, Title 32, Part V, the PPO Plan of Benefits, is effective May 31, 2000, and shall remain in effect for 31 days, until July 1, 2000.

Title 32
EMPLOYEE BENEFITS
Part III. Preferred Provider Organization
(PPO)—Plan of Benefits

Chapter 1. Eligibility
§103. Continued Coverage

A. - D.3. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave

without pay. The participant employer may pay the employee's share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

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 25:1827 (October 1999), LR 26:

A. Kip Wall
Chief Executive Officer

0006#113

DECLARATION OF EMERGENCY

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

Peace Officers CStandards and Training
(LAC 22:III.Chapter 47)

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 emergency rule is to be effective on June 1, 2000 and will remain in effect for 120 days or until a final rule takes effect through the normal rulemaking process, whichever occurs first.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part III. Commission on Law Enforcement and
Administration of Criminal Justice
Chapter 47. Standards and Training
§4703. Basic Certification

A. - C. ...

D. To maintain firearm certification, an officer shall be required to requalify yearly on the POST firearms qualification course, demonstrating at least 80 percent proficiency. Scores shall be computed and verified by a POST certified Firearms Instructor. If the period between qualifying exceeds 18 months for any reason, the officer will be required to successfully complete a Firearms Course prescribed by the POST Council conducted by a POST certified Firearms Instructor, unless the officer had been in the military for more than three years and was exercising his veteran reemployment rights.

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), amended LR 26:

Michael A. Ranatza
Executive Director

0005#077

DECLARATION OF EMERGENCY

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

Chiropractic Services C Termination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides coverage for chiropractic services under the Medicaid Program. Section 440.225 of the Code of Federal Regulations (42 CFR) states that "any of the services defined in subpart A of this part that are not required under sections 440.210 and 440.220 may be furnished under the state plan at the state's option." Chiropractic services are considered optional under the Title XIX of the Social Security Act and a state may choose to either include or exclude these services under the Medicaid State Plan.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to terminate coverage of chiropractic services for recipients aged 21 and older. However, the Medicaid Program will continue to provide coverage of medically necessary manual manipulation of the spine for Early and Periodic Screening, Diagnostic and Treatment Program (EPSDT) recipients under the age of 21 years when the service is rendered as the result of a referral from an EPSDT medical screening provider. Prior authorization shall continue to be required for chiropractic services rendered to recipients under four years of age and for the thirteenth chiropractic service rendered to recipients between the ages of 5 and 21. However, reimbursement shall no longer be made to chiropractors for radiology procedures.

This action is necessary to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective June 21, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement for chiropractic services for recipients aged 21 and older.

However, the Medicaid Program will continue to provide coverage of medically necessary manual manipulation of the spine for Early and Periodic Screening, Diagnostic and Treatment Program (EPSDT) recipients under the age of 21 years when the service is rendered as the result of a referral from an EPSDT medical screening provider. Prior authorization shall continue to be required for chiropractic services rendered to recipients under four years of age and for the thirteenth chiropractic service rendered to recipients between the ages of 5 and 21. However, reimbursement shall no longer be made to chiropractors for radiology procedures.

Interested persons may submit written comments to the following address: 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

0006#035

DECLARATION OF EMERGENCY

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

Durable Medical Equipment C Customized Wheelchairs Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing reimburses certain durable medical equipment items using a formula based on a percentage calculation of the Manufacturer's Suggested Retail Price (MSRP). As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement for manual type customized wheelchairs and their components from MSRP minus 15 percent to MSRP minus 20 percent and reduce the reimbursement for motorized type customized wheelchairs from MSRP minus 12 percent to MSRP minus 17 percent.

This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement for manual type customized wheelchairs and their components from Manufacturer's Suggested Retail Price (MSRP) minus 15 percent to MSRP minus 20 percent and motorized type customized wheelchairs from MSRP minus 12 percent to MSRP minus 17 percent.

Interested persons may submit written comments to the following address: 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

0006#058

DECLARATION OF EMERGENCY

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

Durable Medical Equipment CE and K Procedure Codes

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing reimburses certain durable medical equipment items at 80 percent of the Medicare Fee Schedule amount or billed charges whichever is the lesser amount for specific Health Care Financing Administration Common Procedure Codes (HCPC). As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce reimbursement for these specified HCPC procedure codes by 10 percent. Reimbursement will be reduced to 70 percent of the Medicare fee schedule

amount or billed charges, whichever is the lesser amount for the following HCPC procedure codes:

E1050-E1060	Wheelchairs with special features
E1070-E1110	
E1170-E1213	
E1221-E1224	
E1240-E1295	
K0002-K0014	
L7803-L8030	Breast Prosthesis
L8039	
L8400-L8435	Prosthetic Sheaths
L8470-L8485	Prosthetic Socks
L8100-L8230	Elastic Support Stockings
L8239	
A7003-A7017	Nebulizer Administrative Supplies
K0168-K0181	
K0529-K0530	
E0840-E0948	Traction Equipment
E0781, K0455	External Ambulatory Infusion Pumps
E0621	Patient Lift Slings
E0480	Percussors
E0550-E0560	Humidifiers
E0565	Compressors

This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific HCPC procedure codes by 10 percent. Reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount or billed charges whichever is the lesser amount for the following HCPC procedure codes:

E1050-E1060	Wheelchairs with special features
E1070-E1110	
E1170-E1213	
E1221-E1224	
E1240-E1295	
K0002-K0014	
L7803-L8030	Breast Prosthesis
L8039	
L8400-L8435	Prosthetic Sheaths
L8470-L8485	Prosthetic Socks
L8100-L8230	Elastic Support Stockings
L8239	
A7003-A7017	Nebulizer Administrative Supplies
K0168-K0181	
K0529-K0530	
E0840-E0948	Traction Equipment
E0781, K0455	External Ambulatory Infusion Pumps

E0621	Patient Lift Slings
E0480	Percussors
E0550-E0560	Humidifiers
E0565	Compressors

Interested persons may submit written comments to the following address: 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

0006#057

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Durable Medical Equipment Enteral
Formulas Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing reimburses for various groupings of enteral formulas either at 100 percent of the Medicare Fee Schedule or at an established flat fee amount for individual formulas or billed charges whichever is the lesser amount. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce reimbursement for these enteral formulas by 20 percent. Reimbursement will be reduced to 80 percent of the Medicare Fee Schedule for various groupings of formulas or to a rate of 80 percent of established flat fee amount for certain individual formulas or billed charges whichever is the lesser amount.

This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement for enteral formulas by 20 percent. Reimbursement will be reduced to 80 percent of the Medicare Fee Schedule for various groupings of enteral formulas or to a rate of 80 percent of established flat fee amount for certain individual formulas or billed charges whichever is the lesser amount.

Interested persons may submit written comments to the following address: 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

0006#056

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Durable Medical Equipment Equipment
and Supplies Delivery Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement in the Durable Medical Equipment Program for the delivery of medical equipment and supplies. The reimbursement is either the lesser of billed charges or 10 percent of the total shipping amount of the prior authorized medical equipment and supplies up to a maximum amount of \$75. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for delivery of medical equipment and supplies to either the lesser of billed charges or 5 percent of the total shipping amount of the prior authorized medical equipment and supplies up to a maximum of \$50. This action is necessary in order to avoid

a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rate for delivery of medical equipment and supplies to either the lesser of billed charges or 5 percent of the total shipping amount of the prior authorized medical equipment and supplies up to a maximum of \$50.

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

David W. Hood
Secretary

0006#055

DECLARATION OF EMERGENCY

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

Durable Medical Equipment
Flat Fee Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing currently provides reimbursement for the certain durable medical equipment items at a rate of 80 percent of the Medicare allowable fee. As a result of a budgetary shortfall, the Bureau has determined it is necessary to change the reimbursement methodology for these items from a percentage of the Medicare allowable fee to a Medicaid established flat fee amount. Reimbursement for these durable medical equipment items will be as follows:

Enteral infusion pumps

B9000, B9002	\$595 purchase	\$92 rental per month
B0777, B0778		

Standard type wheelchairs

E1130 and K0001	\$250 purchase	\$35 rental per month
E1140	\$412.50 purchase	\$38.50 rental per month
E1150	\$453.75 purchase	\$42.35 rental per month
E1160	\$375 purchase	\$50 rental per month

Hospital beds

E0255	\$650 purchase	\$75 rental per month
E0265	\$1250 purchase	\$75 rental per month

Artificial eyes

V2623	\$500 purchase	
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Commode chairs

E0163	\$55 purchase	
E0164	\$83.55 purchase	
E0165	\$85 purchase	
E0166	\$142.80 purchase	

Stationary suction machines

Z0500	\$225 purchase	\$35 rental per month
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This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing changes the reimbursement methodology for the following durable medical equipment items from 80 percent of the Medicare allowable fee to a Medicaid established flat fee amount:

Enteral infusion pumps

B9000, B9002	\$595 purchase	\$92 rental per month
B0777, B0778		

Standard type wheelchairs

E1130 and K0001	\$250 purchase	\$35 rental per month
E1140	\$412.50 purchase	\$38.50 rental per month
E1150	\$453.75 purchase	\$42.35 rental per month
E1160	\$375 purchase	\$50 rental per month

Hospital beds

E0255	\$650 purchase	\$75 rental per month
E0265	\$1250 purchase	\$75 rental per month

Artificial eyes

V263	\$500 purchase
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Commode chairs

E0163	\$55 purchase
E0164	\$83.55 purchase
E0165	\$85 purchase
E0166	\$142.80 purchase

Stationary suction machines

Z0500	\$225 purchase	\$35 rental per month
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Interested persons may submit written comments to the following address: Ben A. Bearden, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0006#054

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for durable medical equipment and supplies. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined that it is necessary to compare the Medicare payment and the Medicaid rate on file for Medicare Part B claims for medical equipment or supply items. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective with dates of service June 8, 2000, and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for Medicare Part B claims for medical equipment or supply items. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#053

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Orthotics
and Prosthetics Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing reimburses certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at 80 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce reimbursement for orthotic and prosthetic items by 10 percent. Reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC procedure codes:

L0100-L2999	Orthotics
L3650-L4380	
L5000-L7499	Prosthetics

This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific HCPC procedure codes by 10 percent. Reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC procedure codes:

L0100-L2999	Orthotics
L3650-L4380	
L5000-L7499	Prosthetics

Interested persons may submit written comments to the following address: 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

0006#052

DECLARATION OF EMERGENCY

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

Durable Medical Equipment
COSTomy and
Urological Supplies Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing reimburse certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at either 80 percent of the Medicare Fee Schedule, 80 percent of the Manufacturer's Suggested Retail Price

(MSRP) or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for these items by 10 percent. The reimbursement will be reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the MSRP amount or billed charges, whichever is the lesser amount for the following HCPC codes:

A4200- A4460	Ostomy and Urological supplies
A4927-A5149	
K0133-K0139	
A6020-A6406	Wound dressings and supplies
K0216-K0437	

This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes by 10 percent. The reimbursement will be reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the Manufacturer's Suggested Retail Price (MSRP) amount or billed charges, whichever is the lesser amount for the following HCPC codes:

A4200- A4460	Ostomy and Urological supplies
A4927-A5149	
K0133-K0139	
A6020-A6406	Wound dressings and supplies
K0216-K0437	

Interested persons may submit written comments to the following address: 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

0006#051

DECLARATION OF EMERGENCY

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

Durable Medical EquipmentCOxygen
Concentrators and Glucometers Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance

Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for oxygen concentrators and glucometers in the Durable Medical Equipment (DME) Program. Currently, oxygen concentrators are reimbursed at a flat fee of \$1500 for purchase and \$175 per month rental. Glucometers are reimbursed at a flat fee of \$100 for purchase (rental is not applicable). As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement fees for oxygen concentrators to \$1250 for purchase and \$150 per month for rental and for glucometers to \$30 for purchase. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement provided under the Durable Medical Equipment Program for oxygen concentrators to \$1250 for purchase and \$150 per month for rental and for glucometers to \$30 for purchase.

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

David W. Hood
Secretary

0006#050

DECLARATION OF EMERGENCY

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

Durable Medical EquipmentCParenteral
and Enteral Supplies Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted

the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq., and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing reimburses certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at 80 percent or 100 percent of the Medicare Fee Schedule. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for these items by 10 percent. The reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount for the following HCPC codes:

B4034-B4084, B9004-B9999	Parenteral and Enteral supplies
E0776, E0791	
A4624-A4625	Suction Catheters
A4621	Tracheostomy masks or collars
A4623	Tracheostomy cannulas

The reimbursement will be reduced to 90 percent of the Medicare Fee Schedule amount for the following HCPC codes:

A4622	Tracheostomy tubes
A4629	Tracheostomy care kits

This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes by 10 percent. The reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount for the following HCPC codes:

B4034-B4084, B9004-B9999	Parenteral and Enteral supplies
E0776, E0791	
A4624-A4625	Suction Catheters
A4621	Tracheostomy masks or collars

A4623	Tracheostomy cannulas
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The reimbursement will be reduced to 90 percent of the Medicare Fee Schedule amount for the following HCPC codes:

A4622	Tracheostomy tubes
A4629	Tracheostomy care kits (HCPC) codes

Interested persons may submit written comments to the following address: 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

0006#049

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Durable Medical Equipment CZ and E Procedure Codes

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides a flat fee reimbursement for all durable medical equipment items identified by Health Care Financing Administration Common Procedure Codes (HCPC) beginning with the letter "Z"; all miscellaneous equipment items identified with the HCPC code E1399; and all home health supply items and other miscellaneous supplies identified with the HCPC code Z1399. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement for medical equipment and home health supply items in the Durable Medical Equipment Program that are identified by a HCPC code beginning with the letter "Z" or HCPC code E1399 or

Z1399 by 30 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for all durable medical equipment items identified by Health Care Financing Administration Common Procedure Codes (HCPC) beginning with the letter "Z"; all miscellaneous equipment items authorized with the HCPC codes E1399; and all home health supply items and other miscellaneous supplies identified with the HCPC code Z1399 by 30 percent.

Interested persons may submit written comments to the following address: 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

0006#048

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment
(EPSDT)CDental Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has

determined it is necessary to reduce the reimbursement fees for EPSDT Dental services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Dental services by 7 percent.

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

David W. Hood
Secretary

0006#047

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment
(EPSDT)CKidMed Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services under the Medicaid Program. Reimbursement for these services is the flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement fees for EPSDT KidMed services by 7 percent. This action is necessary in order to avoid a budget

deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed services by 7 percent.

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

David W. Hood
Secretary

0006#046

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and
Treatment (EPSDT) Rehabilitation
Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Rehabilitation services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the fees for EPSDT Rehabilitation services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates for the Early Periodic Screening Diagnosis and Treatment (EPSDT) Rehabilitation services by 7 percent.

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

David W. Hood
Secretary

0006#045

DECLARATION OF EMERGENCY

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

Emergency Ambulance Transportation
Services Medicare Crossover

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for emergency ambulance services. Section 1902(a)(10) of the Social Security Act provides States flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that States have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a State is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or copayments for Medicare

cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a State's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to compare the Medicare payment and the Medicaid rate on file for emergency ambulance services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the March 1, 2000, rule.

Emergency Rule

Effective for dates of services on or after June 30, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment and the Medicaid rate on file for emergency ambulance services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#044

DECLARATION OF EMERGENCY

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

Emergency Medical Transportation Program Emergency Ambulance Transportation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, 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 a budgetary shortfall, the Bureau has determined it is necessary to reduce the base rate for emergency ambulance transportation services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the base rate for emergency ambulance transportation services by 7 percent.

Interested persons may submit written comments to the following address: 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

0006#043

DECLARATION OF EMERGENCY

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

Emergency Medical Transportation
Program
Nonemergency Ambulance
Transportation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for nonemergency 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 a budgetary shortfall the Bureau has determined it is necessary to reduce the base rate for nonemergency ambulance transportation services to the rate that was in effect prior to July 1, 1999. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the base rate for nonemergency ambulance transportation services to the rate that was in effect prior to July 1, 1999.

Interested persons may submit written comments to the following address: 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

0006#042

DECLARATION OF EMERGENCY

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

Family Planning Clinics
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides coverage for family planning clinic services. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for family planning services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement to family planning clinics by 7 percent.

Interested persons may submit written comments to the following address: 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

0006#041

DECLARATION OF EMERGENCY

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

Hemodialysis Centers Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for hemodialysis services. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined that it is necessary to do a comparison of the Medicare payment and the Medicaid rate on file for hemodialysis services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim

with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective with date of service June 8, 2000, and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for hemodialysis services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#040

DECLARATION OF EMERGENCY

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

Home Health Extended Skilled Nursing Visits Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect of the maximum period allowed under the

Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Home Health extended skilled nursing visits provided to medically fragile Medicaid recipients under the age of 21. Reimbursement is made at a prospective rate established by the Bureau. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to \$20. The first hour of care must be included in the prior authorization request for extended skilled nursing visits. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to \$20. The first hour of care must be included in the prior authorization request for extended skilled nursing visits.

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

David W. Hood
Secretary

0006#039

DECLARATION OF EMERGENCY

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

Home Health Services
Skilled Nursing
and Physical Therapy Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect of the maximum period allowed under the

Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for skilled nursing and physical therapy services provided by home health agencies. Reimbursement is made at a prospective rate established by the Bureau. As a result of a budgetary shortfall, the Bureau has determined it is necessary to create a separate reimbursement rate of 80 percent of the current skilled nursing rate when services are performed by a licensed practical nurse (LPN). However, the current fee on file will continue to be paid when a registered nurse (RN) provides the skilled nursing service. In addition, it is necessary to establish a separate reimbursement rate of 80 percent of the current physical therapy rate when services are provided by a physical therapist assistant. However, the current fee on file will continue to be paid when a licensed physical therapist provides the physical therapy services. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a separate reimbursement rate of 80 percent of the current Home Health skilled nursing rate when the skilled nursing service is provided by a licensed practical nurse (LPN). However, the current fee on file will continue to be paid when a licensed registered nurse (RN) provides the skilled nursing service. In addition, a separate reimbursement rate of 80 percent of the current Home Health physical therapy rate is established when the physical therapy services are provided by a physical therapist assistant. However, the current fee on file will continue to be paid when a licensed physical therapist provides the physical therapy services.

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

David W. Hood
Secretary

0006#038

DECLARATION OF EMERGENCY

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

Hospital Program
Outpatient Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and

pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges and cost settlement adjusted to 83 percent of allowable costs documented in the cost report, except for laboratory services subject to the Medicare Fee Schedule and outpatient surgeries (*Louisiana Register*, Volume 22, Number 1).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the interim reimbursement rate for hospital outpatient services to a hospital specific cost to charge ratio calculation based on filed cost reports for the period ending in state fiscal year 1997. The final reimbursement for these services will continue to be cost settlement at 83 percent of allowable costs. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the March 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after July 7, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing amends the interim payment for outpatient hospital services not subject to a fee schedule in private hospitals to a hospital specific cost to charge ratio calculation based on filed cost reports for the period ending in state fiscal year 1997. The final reimbursement for these services will continue to be cost settlement at 83 percent of allowable costs.

Interested persons may submit written comments to the following address: 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

0006#037

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services Medicare Part A

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

Section 1902(a)(10) of the Social Security Act provides States flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary.

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions limiting the payment of co-insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to

the Medicaid maximum payment effective July 1, 1999. The provisions of Act 10 specifically excluded small rural hospitals from this limitation of payment to the Medicaid maximum. As a result of a budgetary shortfall, the Bureau has determined it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the revenue code(s) on Medicare Part A claims for services provided in small rural hospitals and hospital skilled nursing units. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 2000 Rule.

Emergency Rule

Effective for dates of service on or after June 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the revenue code(s) on Medicare Part A claims for services provided in small rural hospitals and hospital skilled nursing units. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#010

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services Medicare Part A

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act,

which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for inpatient services provided in a free-standing psychiatric hospital or a distinct-part psychiatric unit of an acute care hospital. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary (QMB) is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to compare the Medicare payment and the Medicaid rate on file for the revenue code(s) on the Medicare Part A claim for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after June 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment and

the Medicaid rate on file for the revenue code(s) on the Medicare Part A claim for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#036

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in

those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the Medicaid prospective per diem rates for inpatient psychiatric services by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance program. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that inpatient psychiatric services under the state plan are available at least to the extent that they are available to the general population in the state. This emergency rule is being adopted to continue the provisions of the March 1, 2000, rule.

Emergency Rule

Effective for dates of service on or after June 30, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for inpatient psychiatric services by 7 percent.

Interested persons may submit written comments to the following address: 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

0006#011

DECLARATION OF EMERGENCY

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

Laboratory and Portable X-Ray Services Medicare Part B

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for laboratory and portable x-ray services. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or copayments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary.

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the procedure code on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of services on or after June 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the procedure code on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#009

DECLARATION OF EMERGENCY

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

Laboratory and Portable X-Ray Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for laboratory and portable x-ray services under the Medicaid Program. Reimbursement for laboratory services is made on the basis of either the lower of billed charges, the state maximum amount, or the Medicare fee schedule amount. Reimbursement for portable x-ray services is on a flat fee basis. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rates for laboratory and portable x-ray services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for laboratory and portable x-ray services by 7 percent.

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

for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0006#012

DECLARATION OF EMERGENCY

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

Long Term Hospital Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June 20, 1994 which established the reimbursement methodology for inpatient hospital services, including long-term acute hospitals under the specialty hospital peer groups (*Louisiana Register*, Volume 20, Number 6) and subsequently adopted a rule which amended the peer group rate payment to the lowest blended per diem rate for each specialty hospital category without otherwise changing the methodology (*Louisiana Register*, Volume 22, Number 1). The reimbursement methodology for psychiatric treatment was later disjoined from the methodology for other types of services in a long-term acute hospitals in order to reimburse these services at the same prospective per diem rate established for psychiatric treatment facilities (*Louisiana Register*, Volume 23, Number 2). The June 20, 1994 rule was subsequently amended to restructure the prospective reimbursement methodology for inpatient services provided in long-term acute hospitals (*Louisiana Register*, Volume 23, Number 12).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce Medicaid prospective per diem rates for inpatient long term hospital services by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance program. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed

the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that long term hospital services under the state plan are available at least to the extent that they are available to the general population in the state. This emergency rule is being adopted to continue the provisions of the March 1, 2000, rule.

Emergency Rule

Effective for dates of service on or after June 30, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement to long term hospitals by 7 percent.

Interested persons may submit written comments to the following address: 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

0006#034

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, 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 noncapitated 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 a budgetary shortfall, the Bureau has determined it is necessary to reduce the established reimbursement rates for high need services for adults and children as well as moderate need services for children by 7

percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces 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 by 7 percent.

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

David W. Hood
Secretary

0006#033

DECLARATION OF EMERGENCY

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

Out-of-State Hospitals CInpatient Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in January of 1996 which established the reimbursement methodology for inpatient hospital services provided in out-of-state hospitals at the lower of 50 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided (*Louisiana Register*, Volume 22, Number 1). This rule was subsequently amended in September of 1997 to increase the reimbursement to 72 percent of billed charges for inpatient services provided in out-of-state hospitals to recipients up to age 21 (*Louisiana Register*, Volume 23, Number 9)

As a result of a budgetary shortfall, the Bureau has determined it is necessary to amend the reimbursement methodology for out-of-state hospitals that have provided at least 500 inpatient hospital days in State Fiscal Year 1999 to Louisiana Medicaid recipients and are located in border cities. Border cities are defined as cities that are located within a 50 mile trade area of the Louisiana state border. The following two cities meet the criteria for number of inpatient hospital days provided to Louisiana Medicaid recipients and the definition of border cities: Natchez, Mississippi and Vicksburg, Mississippi. Louisiana Medicaid reimbursement for inpatient services provided in all hospitals located in these two border cities will be at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Mississippi Medicaid per diem rate. The actual cost per day is calculated by dividing total Medicaid inpatient cost by total Medicaid inpatient days, including nursery days. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the March 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after July 7, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for out-of-state hospitals that provided at least 500 inpatient hospital days in State Fiscal Year 1999 to Louisiana Medicaid recipients and are located in border cities. Border cities are defined as cities that are located within a 50 mile trade area of the Louisiana state border. The following two cities meet the criteria for number of inpatient hospital days provided to Louisiana Medicaid recipients and the definition of border cities: Natchez, Mississippi and Vicksburg, Mississippi. Louisiana Medicaid reimbursement for inpatient services provided in all hospitals located in these two border cities will be at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Mississippi Medicaid per diem rate. The actual cost per day is calculated by dividing total Medicaid inpatient cost by total Medicaid inpatient days, including nursery days. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21.

Interested persons may submit written comments to the following address: 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

0006#032

DECLARATION OF EMERGENCY

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

Outpatient Hospital Laboratory Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in April of 1997 that established a uniform reimbursement methodology for all laboratory services subject to the Medicare Fee Schedule regardless of the setting in which the services are performed, outpatient hospital or a non-hospital setting. Outpatient hospital laboratory services are reimbursed at the same reimbursement rate as laboratory services performed in non-hospital setting (*Louisiana Register*, Volume 23, Number 4).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rates for outpatient hospital laboratory services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. Taking into consideration the 7 percent reduction in reimbursement rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that outpatient hospital laboratory services under the state plan are available at least to the extent that they are available to the general population in the state. This emergency rule is being adopted to continue the provisions of the March 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after July 7, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for outpatient hospital laboratory services by 7 percent.

Interested persons may submit written comments to the following address: 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 notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0006#030

DECLARATION OF EMERGENCY

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

Outpatient Hospital Rehabilitation Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1997 which established a uniform reimbursement methodology for all rehabilitation services regardless of the setting in which the services are performed, outpatient hospital or a free-standing rehabilitation center (*Louisiana Register*, Volume 23, Number 6). Rehabilitation services include physical, occupational, speech, hearing, and language therapies.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rates for outpatient hospital rehabilitation services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. Taking into consideration the 7 percent reduction in reimbursement rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that outpatient hospital rehabilitation services under the state plan are available at least to the extent that they are available to the general population in the state. This emergency rule is being adopted to continue the provisions of the March 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after July 7, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for outpatient hospital rehabilitation services by 7 percent. Outpatient hospital rehabilitation services include physical, occupational, speech, hearing, and language therapies.

Interested persons may submit written comments to the following address: 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

0006#029

DECLARATION OF EMERGENCY

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

Outpatient Hospital Services Medicare Part B

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950(B)(1) et seq. and 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, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for outpatient hospital services. Section 1902(a)(10) of the Social Security Act provide states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide

any payment for any expenses incurred relating to payment for deductibles, co-insurance, or copayments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the applicable revenue code. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of admission on or after June 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the applicable revenue code. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#028

DECLARATION OF EMERGENCY

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

Outpatient Surgery Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in December of 1985 that established the criteria and reimbursement for certain surgical procedures when performed in an outpatient setting. Reimbursement for these surgical procedures was set at a flat fee per service if the procedure code is included in one of the four Medicaid established payment groups. Reimbursement for those surgical procedures not included in the Medicaid outpatient surgery list was not changed from the established methodology (*Louisiana Register*, Volume 11, Number 12). A rule was subsequently adopted in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges, except for those outpatient surgeries subject to the Medicaid outpatient surgery list (*Louisiana Register*, Volume 22, Number 1).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to assign the highest flat fee in the four Medicaid established payment groups for outpatient surgery to those surgical procedures that are not included in the Medicaid outpatient surgery list. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the March 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after July 7, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for those surgical procedures that are not included in the Medicaid outpatient surgery list to the highest flat fee in the four Medicaid established payment groups for outpatient surgery.

Interested persons may submit written comments to the following address: 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

0006#027

DECLARATION OF EMERGENCY

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

Pharmacy Program Average Wholesale Price

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions that amended the reimbursement methodology for prescription drugs under the Medicaid Program. The provisions of Act 10 limited the payments for prescription drugs by amending the Estimated Acquisition Cost formula from Average Wholesale Price (AWP) minus 10.5 percent for single source drugs (brand name), multiple source drugs which do not have a state Maximum Allowable Cost (MAC) or Federal Upper Limit and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary to AWP minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies. Chain pharmacies were defined as five or more Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies were defined as independent pharmacies.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to amend the current reimbursement methodology for prescription drugs by changing the Estimated Acquisition Cost formula from AWP

minus 10.5 percent to AWP minus 15 percent for independent pharmacies and from AWP minus 13.5 percent to AWP minus 16.5 percent for chain pharmacies for single source drugs (brand name), multiple source drugs which do not have a state Maximum Allowable Cost (MAC) or Federal Upper Limit and those prescriptions subject to MAC overrides based on the physician's certification that a brand name product is medically necessary.

The Bureau has also determined that chain pharmacies shall be defined as more than 15 Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies are defined as independent pharmacies. This action is necessary in order to avoid a budget deficit in the Medical Assistance Program. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of services on or after June 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing limits payments for prescription drugs to the lower of:

1) Average Wholesale Price (AWP) minus 15 percent for independent pharmacies (all other Medicaid enrolled pharmacies) and 16.5 percent for chain pharmacies (more than 15 Medicaid enrolled pharmacies under common ownership);

2) Louisiana's Maximum Allowable Cost limitation plus the Maximum Allowable Overhead Cost;

3) Federal Upper Limits plus the Maximum Allowable Overhead Cost; or

4) provider's usual and customary charges to the general public. General public is defined as all other non-Medicaid prescriptions including third-party insurance, pharmacy benefit management plans and cash.

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

David W. Hood
Secretary

0006#026

DECLARATION OF EMERGENCY

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

Private Hospital-Inpatient Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as

directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule 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). 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). This rule was later amended by a rule adopted in May of 1999 which discontinued 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).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the prospective per diem rates for private (non-state) acute hospital inpatient services by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance program. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services under the state plan are available at least to the extent that they are available to the general population in the state. This emergency rule is being adopted to continue the provisions of the March 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after July 7, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for private (non-state) hospital inpatient services by 7 percent.

Interested persons may submit written comments to the following address: 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

0006#008

DECLARATION OF EMERGENCY

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

Private Intermediate Care Facilities for the Mentally
Retarded
Leave of Absence Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICF/MR) on October 20, 1989 (*Louisiana Register*, Volume 15, Number 10). The reimbursement methodology contained provisions governing payment to private ICFs/MR when the recipient is absent from the facility due to hospitalization or visits with family. A rule was subsequently adopted in April of 1999 to expand the number of payable hospital leave of absence days from five to seven days per hospitalization for treatment of an acute condition (*Louisiana Register*, Volume 25, Number 4).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the payment to private ICFs/MR for hospital leave days by 25 percent. The reimbursement for hospital leave days will be 75 percent of the applicable per diem rate. This action is being taken in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the March 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after July 7, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the payment to private intermediate care facilities for the mentally retarded for hospital leave days by 25 percent. The reimbursement for hospital leave days will be 75 percent of the applicable ICF/MR per diem rate.

Interested persons may submit written comments to the following address: 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

0006#025

DECLARATION OF EMERGENCY

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

Private Intermediate Care Facilities for the Mentally
Retarded
Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10). This rule was subsequently amended by a rule adopted 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 6).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the Medicaid prospective per diem rates for private intermediate care facilities for the mentally retarded (ICF-MR) by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance programs. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private intermediate care facilities for the mentally retarded (ICF-MR) services under the state plan are available at least to the extent that they are available to the general population in the state. This emergency rule is being adopted to continue the provisions of the March 1, 2000, rule.

Emergency Rule

Effective for dates of service on or after June 30, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for private intermediate care facilities for the mentally retarded by 7 percent.

Interested persons may submit written comments to the following address: 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

0006#024

DECLARATION OF EMERGENCY

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

Private Nursing Facilities
Leave of Absence Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule which established the reimbursement methodology for private nursing facilities on June 20, 1984 (*Louisiana Register*, Volume 10, Number 6). The reimbursement methodology contained provisions governing payment to private nursing facilities when the recipient is absent from the faculty due to hospitalization or visits with family. A rule was subsequently adopted in May of 1998 to expand the number of payable hospital leave of absence days from five to seven per hospitalization for treatment of an acute condition (*Louisiana Register*, Volume 24, Number 5)

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the payment to private nursing facilities for hospital leave days by 25 percent. The reimbursement for hospital leave days will be 75 percent of

the applicable per diem rate. This action is being taken in order to avoid a budget deficit in the medical assistance program. This emergency rule is being adopted to continue the provisions of the March 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after July 7, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the payment to private nursing facilities for hospital leave days by 25 percent. The reimbursement for hospital leave days will be 75 percent of the applicable private nursing facility per diem rate.

Interested persons may submit written comments to the following address: 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

0006#023

DECLARATION OF EMERGENCY

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

Private Nursing Facilities Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). This rule was subsequently amended by a rule adopted 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 6).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce Medicaid prospective per diem rates for private nursing facilities by 7 percent.

This action is being taken in order to avoid a budget deficit in the medical assistance program. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private nursing facilities services under the state plan are available at least to the extent that they are available to the general population in the state. This emergency rule is being adopted to continue the provisions of the March 1, 2000, rule.

Emergency Rule

Effective for dates of service on or after June 30, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement to private nursing facilities by 7 percent.

Interested persons may submit written comments to the following address: 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

0006#022

DECLARATION OF EMERGENCY

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

Professional Services Program Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for professional services. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare

Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary.

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined that it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the procedure code(s) indicated on the Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, claims for hemodialysis and transplantation services are excluded from this limitation. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective with date of service June 1, 2000 and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the procedure code(s) indicated on the Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, claims for hemodialysis and transplantation services are excluded from this limitation. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparisons, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

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

David W. Hood
Secretary

0006#021

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Professional Services Program
Neonatal Care Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for neonatal care. Reimbursement for these services is the flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement of neonatal care services for the following Current Procedural Terminology (CPT) procedure codes: CPT code 99295 to \$496.85 and CPT code 99298 to \$100.10. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement of neonatal care services for the following Current Procedural Terminology (CPT) procedure codes: CPT code 99295 to \$496.85 and CPT code 99298 to \$100.10.

Interested persons may submit written comments to the following address: 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

0006#020

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Professional Services Program
Physician Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration (HCFA) Common Procedure Codes (HCPC). Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement fees for surgery codes (CPT codes 10040-69979), medicine codes (CPT codes 90281-99199), evaluation and management codes (CPT codes 99201-99499) fees for radiology services codes (CPT codes 70010-79999), pathology and laboratory services codes (CPT codes 80048-89399), and selected locally-assigned HCPCS by 7 percent. Excluded from this reduction will be the reimbursement fees for chemotherapy medications, prenatal and postnatal visits (CPT codes Z9004, Z9005 and Z9006), vaginal and cesarean deliveries, tubal ligations, anesthesia services for vaginal and cesarean deliveries, hemodialysis, tonsillectomies and adenoidectomies, neonatal care, and radiology oncology services. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement fees for surgery codes (CPT codes 10040-69979), medicine codes (CPT codes 90281-99199), evaluation and management codes (CPT codes 99201-99499) fees for radiology services codes (CPT codes 70010-79999), pathology and laboratory services codes (CPT codes 80048-89399) and selected locally-assigned Health Care Financing Administration (HCFA) Common Procedure Codes (HCPC) by 7 percent. Excluded from this reduction will be reimbursement fees for chemotherapy medications, prenatal and postnatal visits (CPT codes Z9004, Z9005 and Z9006), vaginal and cesarean deliveries, tubal ligations, anesthesia services for vaginal and cesarean deliveries, hemodialysis, tonsillectomies and adenoidectomies, neonatal care, and radiology oncology services.

Interested persons may submit written comments to the following address: 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

0006#019

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Professional Services Program
C Tonsillectomy
and Adenoidectomy Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for tonsillectomy and adenoidectomy services. Reimbursement for these services is the flat fee established by the Bureau

minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the professional fees for the performance of tonsillectomies and adenoidectomies for the following Current Procedural Terminology (CPT) procedure codes:

CPT code 42820	\$425.25
CPT code 42821	\$425.25
CPT code 42825	\$405.00
CPT code 42826	\$438.75
CPT code 42830	\$408.38
CPT code 42831	\$388.13

This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the professional fees for the performance of tonsillectomies and adenoidectomies for the following Current Procedural Terminology (CPT) procedure codes:

CPT code 42820	\$425.25
CPT code 42821	\$425.25
CPT code 42825	\$405.00
CPT code 42826	\$438.75
CPT code 42830	\$408.38
CPT code 42831	\$388.13

Interested persons may submit written comments to the following address: 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

0006#018

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Rehabilitation Centers Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in

the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for services delivered by rehabilitation centers that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rates for services provided in a rehabilitation center by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of service June 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates for services provided in rehabilitation centers by 7 percent. Rehabilitation centers are facilities that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies.

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

David W. Hood
Secretary

0006#017

DECLARATION OF EMERGENCY

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

Rehabilitation Services Medicare Crossover

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in

the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for rehabilitation services. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost-sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or copayments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to compare the Medicare payment and the Medicaid rate on file for the revenue code(s) on the Medicare Part B claim for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service on or after June 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment and the Medicaid rate on file for the revenue code(s) on the Medicare Part B claims for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim will

be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#016

DECLARATION OF EMERGENCY

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

Substance Abuse Clinics Medicare Part B

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." 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 of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for substance abuse clinic services. Section 1902(a)(10) of the Social Security Act provide states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that a state is not required to provide any

payment for any expenses incurred relating to payment for deductibles, co-insurance, or copayments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary.

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the applicable procedure code on the Medicare Part B claim for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 1, 2000, rule.

Emergency Rule

Effective for dates of admission on or after June 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the procedure code on the Medicare Part B claim for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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

David W. Hood
Secretary

0006#015

DECLARATION OF EMERGENCY

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

Substance Abuse Clinics C Termination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage for Substance Abuse Clinic services under the Medicaid Program. As a result of a budgetary shortfall, the Bureau has determined it is necessary to terminate coverage of this optional services program under its Title XIX State Plan. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 21, 2000, rule.

Emergency Rule

Effective June 21, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement for Substance Abuse Clinic services under the Medicaid Program.

Interested persons may submit written comments to the following address: 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

0006#014

DECLARATION OF EMERGENCY

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

Targeted Case Management Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and 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, Bureau of Health Services Financing provides reimbursement for targeted case management services rendered to the following targeted populations: Infants and Toddlers, High Risk Pregnant Women, HIV-Infected Persons and Elderly and Disabled Adult Waiver recipients. Reimbursement for these services is a fixed monthly rate for the provision of the core elements of case management services. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the fixed monthly reimbursement rate for case management services provided to the above-referenced targeted populations by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. This emergency rule is being adopted to continue the provisions of the February 8, 2000, rule.

Emergency Rule

Effective for dates of service June 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the fixed monthly reimbursement rate for targeted case management services by 7 percent for services provided to the following targeted populations: Infants and Toddlers, High Risk Pregnant Women, HIV-Infected Persons and Elderly and Disabled Adult Waiver recipients.

Interested persons may submit written comments to the following address: 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

0006#013

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of Conservation**

Pollution ControlCStatewide Order No. 29-B
(LAC 43:XIX.129)

Order requiring testing of exploration and production (E&P) waste upon receipt by a commercial facility, and identification of acceptable storage, treatment and disposal methods for certain E&P waste types.

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefor are now adopted and promulgated by the commissioner of conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by continuing a procedure for testing E&P waste after receipt at a commercial facility and identifying acceptable storage, treatment and disposal methods for certain E&P wastes at commercial facilities.

Need and Purpose

Certain oil and gas exploration and production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing state regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for storage, treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted the commissioner of conservation to issue a first Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at permitted commercial E&P waste disposal facilities within the state of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998 Emergency Rule that sampling and testing should be extended for an

additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The second Emergency Rule required continued comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the terms of the first and second Emergency Rules, approximately 1,800 E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, determined that the number of raw data sets of E&P waste types, along with other published analytical results of E&P waste testing, provided adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation was unnecessarily redundant, and was discontinued. The third Emergency Rule adopted on October 1, 1998 required continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in Section D. Such continued testing was required to assure that E&P waste shipments received for disposal at commercial facilities were consistent with evolving E&P waste profiles.

A fourth Emergency Rule, adopted January 29, 1999, a fifth Emergency Rule, adopted May 29, 1999, a sixth Emergency Rule, adopted September 26, 1999, and a seventh Emergency Rule, adopted January 24, 2000 provided requirements for continued testing of all E&P waste shipments received for disposal at commercial E&P waste disposal facilities, as well as identifying acceptable methods of storage, treatment and disposal of certain E&P waste types at such commercial facilities. However, since evaluation of data generated by Emergency Rules 1 and 2 has not been completed and a permanent rule has not been promulgated, it is necessary to adopt an eighth Emergency Rule, effective May 23, 2000, to continue the requirements of the fourth Emergency Rule.

Concurrent with implementation of this Emergency Rule, the Office of Conservation will continue development of a permanent rule for the management and disposal of E&P waste at commercial facilities within the state of Louisiana. Best E&P waste management practices, based on established E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific storage, treatment and disposal options for the various categories of E&P waste.

Synopsis

1. E&P waste will be transported with identification.

Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers;
- 2) stored in enclosed tanks at a commercial facility; and
- 3) disposed by deepwell injection. Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Each Load of E&P Waste Will Be Tested At Commercial Facility

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each load of E&P waste shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

3. Identification of Acceptable Storage, Treatment and Disposal Methods (Options) for E&P Waste

It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The fifth Emergency Rule required that injection in Class II wells, after storage in a closed system, shall be utilized for Waste Types 01 and 14. The remainder of the E&P waste types are currently under study to confirm acceptable storage, treatment and disposal methods. Any additional acceptable storage, treatment and disposal methods will be promulgated in the near future.

Reasons

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, and by the identification of acceptable storage, treatment and disposal methods for certain types of E&P waste, it has been determined that failure to establish such procedures and requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the commissioner of conservation to take immediate steps to assure that adequate testing is performed and acceptable storage, treatment and disposal methods for certain types of E&P waste are employed at commercial facilities. The Emergency Rule, Amendment to Statewide Order No. 29-B (Emergency Rule) set forth hereinafter, is now adopted by the Office of Conservation.

Title 43

NATURAL RESOURCES

Part XIX. Office of ConservationCGeneral Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§129. Pollution Control

A. - L. ...

M. Off-site Storage, Treatment and/or Disposal of E &P Waste Generated From Drilling and Production of Oil and Gas Wells

1. Definitions

*Commercial Facility*Ca legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term *transfer station*.

*Exploration and Production (E&P) Waste*Cdrilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following:

Waste Type	Waste Description
01	salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations
02	oil-base drilling mud and cuttings
03	water-base drilling mud and cuttings
04	completion, workover and stimulation fluids
05	production pit sludges
06	production storage tank sludges
07	produced oily sands and solids
08	produced formation fresh water
09	rainwater from ring levees and pits at production and drilling facilities
10	washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material
11	washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material
12	natural gas plant processing (E&P) waste which is or may be commingled with produced formation water
13	waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases
14	pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	salvageable hydrocarbons
99	other approved E&P waste

*NOW*Cexploration and production waste

M.2. - 5.i. ...

- i. Receipt, Sampling and Testing of E&P Waste

ii. ...

iii. Testing Requirements

(a). Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

(i). pH, electrical conductivity (EC-mmhos/cm) and chloride (Cl) content; and

(ii). the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX;

(iii). the sample temperature (degrees Fahrenheit) representing actual testing conditions of the sample obtained for BTEX analysis by methodology that will assure sufficient accuracy; and

(iv). the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX, BTEX sample temperature and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

(c). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H₂S measurement in (a) above if the following conditions are met:

(i). if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and

(ii). if stored in an enclosed container at a commercial facility; and

(iii). if disposed by deep well injection.

(d). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the commissioner or his designated representative. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in §129.M.6.d.

M.5.i.iii. - 5.1. ...

m. It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The following chart includes acceptable and required storage, treatment and disposal methods for each type of E&P waste disposed of at commercial facilities within the state of Louisiana:

Waste Type	Required Storage, Treatment and Disposal Method(s)
01	Injection in Class II well utilizing a closed system
02	(reserved)
03	(reserved)
04	(reserved)
05	(reserved)
06	(reserved)
07	(reserved)
08	(reserved)
09	(reserved)

10	(reserved)
11	(reserved)
12	(reserved)
13	(reserved)
14	Pipeline test water - Injection in Class II well utilizing a closed system Pipeline pigging waste - (reserved)
15	(reserved)
16	(reserved)
50	Commercial salvage oil facility
99	(reserved)

M.6. - S. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July 1980), amended LR 8:79 (February 1982), LR 9:337 (May 1983), LR 10:210 (March 1984), LR 12:26 (January 1986), LR 16:855 (October 1990), LR 17:382 (April 1991), LR 26:

Summary

The Emergency Rule herein above adopted evidences the finding of the commissioner of conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare of the citizens of Louisiana, and that there is not time to provide adequate notice to interested parties. However, the commissioner of conservation notes again that a copy of the permanent amendment to Statewide Order No. 29-B will be developed in the immediate future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The commissioner of conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the governor of the state of Louisiana, the attorney general of the state of Louisiana, the speaker of the House of Representatives, the president of the Senate and the State Register of the adoption of this Emergency Rule and reasons for adoption.

Effective Date and Duration

1. The effective date for this emergency rule shall be May 23, 2000.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an

amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Philip N. Asproditis
Commissioner of Conservation

0006#059

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Manufactured Housing
(LAC 55:V.521, 535 and 543)

Act 92 of the First Extraordinary Session of 2000 amended and reenacted R.S. 51:912.21 and R.S. 51:912.27 to provide for installation permit stickers to prevent unlicensed persons from installing manufactured homes and to provide penalties for unlicensed installation. The present Emergency Rule is intended to accompany Act 92 of the First Extraordinary Session, which is effective June 6, 2000. The effective date for this Emergency Rule is June 6, 2000.

**Title 55
PUBLIC SAFETY**

Part V. Fire Protection

Chapter 5. Manufactured Housing (Installation)

§521. Definitions

*Installation Permit*Ca permit issued by the fire marshal to a licensed installer or the homeowner who must certify that the home is in compliance with this part.

*Installation Permit Sticker*Ca sticker issued by the fire marshal, along with an installation permit, which is to be affixed to the home to signify that the home is in compliance with R.S. 51:912.22. Installation standards for manufactured homes and mobile homes.

*Transporter*Can individual who transports the manufactured home or mobile home to the site of installation but does not perform the blocking and/or anchoring of the home.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:695 (April 1998), amended LR 26:

§535. Monthly Report

A. An installer shall submit a monthly installation report to the Fire Marshal by the 20th day of the following month on forms provided by the fire marshal and provide all information requested thereon.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:697 (April 1998), amended LR 26:

§543. License Suspension or Revocation; Imposition of Civil Penalties

A. - B.4.g. ...

C. The schedule of fines shall be as follows:

1. Performance of any installation services under "Uniform Standards Code for mobile homes and manufactured housing" by a non-licensed person excluding a homeowner:

- \$250 1st
- \$500 2nd
- \$1,000 3rd.

2. Failure to provide a valid installer's license to a Fire Marshal Inspector upon demand at jobsite:

- \$100 1st 2nd 3rd.

3. Failure to install the permit sticker on the mobile home and manufactured home:

- \$100 1st 2nd 3rd.

4. Installation commencement or completion of the installation without a permit sticker:

- \$100 1st
- \$250 2nd
- \$500 3rd.

5. Unauthorized transfer improper transfer of permit sticker:

- \$1,000.

6. Soliciting or contracting for service by non licensed installer:

- \$250 1st
- \$500 2nd
- \$1,000 3rd.

7. Failure to notify Fire Marshals Office of lost or damaged permit sticker:

- \$100 1st 2nd 3rd.

8. False statement by homeowner as to identity of installer:

- \$1,000.

9. False statement by dealer as to identity of installer:

- \$1,000.

10. Installation of home on improper site:

- \$250.

AUTHORITY NOTE: Promulgated in accordance with R.S.51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal., LR 24:697 (April 1998), amended LR 26:

Nancy VanNortwick
Undersecretary

0006#073

DECLARATION OF EMERGENCY

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

Commercial King Mackerel Season
and Possession Limit-2000

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and all rules and regulations pursuant thereto by emergency rule, and R.S. 56:6(25)(a) and 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; the Wildlife and Fisheries Commission hereby sets

the following season and trip limit for the commercial harvest of king mackerel in Louisiana state waters:

The commercial season for king mackerel in Louisiana state waters will open at 12 p.m., July 1, 2000, and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or projected to be harvested; there will be a possession limit of 3,000 pounds.

The commission grants authority to the secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by the National Marine Fisheries Service (NMFS) that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12 p.m., July 1, 2001, which is the date expected to be set for the re-opening of the 2001 commercial king mackerel season in Federal waters.

The commission also authorizes the secretary to open an additional commercial king mackerel season in Louisiana state waters if he is informed that NMFS has opened an additional season and to close such season when he is

informed that the commercial king mackerel quota for the western Gulf of Mexico has been filled, or is projected to be filled.

Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with any closure, no person shall commercially harvest, transport, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with the closure, no person shall possess king mackerel in excess of a daily bag limit. Provided however that fish in excess of the daily bag limit which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6 are properly maintained. Those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish.

Thomas M. Gattle, Jr.
Chairman

0006#071

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of the Commissioner

General Travel C PPM 49

(Editor's Note: The following PPM 49 supersedes all prior issues of PPM 49 published on Pages 1057-1063 of the June 1999 issue of the *Louisiana Register*. This revised PPM 49 also supersedes and replaces PPM 49 which had been designated as Title 4, Part V, Chapter 15 of the *Louisiana Administrative Code*.)

General Travel C PPM Number 49

Section I. Authorization and Legal Basis

A. In accordance with the authority vested in the commissioner of administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2000. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

B. Legal Basis CL.R.S. 39:231B "The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

Section II. Definitions

For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons C

a. advisors, consultants and contractors or other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et. seq;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

Conference/Convention C is herein defined as a meeting for a specific purpose and/or objective and requires payment of a registration fee. Documentation required is a formal

agenda and/or program. Exception for the registration fee requirement can be approved by the department head on a case by case basis. Participation as an exhibiting vendor in an exhibit/trade show also qualifies as a conference.

Emergency Travel C Under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact by the commissioner of administration may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

Extended Stays C of any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

In-State Travel C All travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel C All travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands.

Official Domicile C Every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile.

a. Except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

b. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence.

c. The official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

Out-of-State Travel C travel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands.

Per Diem C a flat rate paid in lieu of travel reimbursement for people on extended stays.

State Employee C employees below the level of state officer.

State Officer C

a. state elected officials;

b. department head as defined by Title 36 of the

Louisiana Revised Statutes (secretary, deputy secretary, under secretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

Temporary Assignment Any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period A period of time between the time of departure and the time of return.

Travel Routes The most direct and usually traveled route must be used by official state travelers.

Travelers may opt to use mileage as shown on the "mileage table" of Department of Transportation's official highway map, or from a mileage chart provided by their department which has been approved by the Commissioner of Administration. For all other mileage, it shall be computed on the basis of odometer readings from point of origin to point of return. (See Mileage Chart)

Traveler A state officer, state employee, or authorized person when performing authorized travel.

Section III. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the commissioner of administration. Three copies of such regulations shall be submitted for prior review and approval by the commissioner of administration. One of the copies shall highlight any exceptions/deviations to PPM 49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration prior to travel. The State also encourages the use of the contracted travel agency to make reservations for hotel and vehicles accommodations, but hotel and vehicles are not a mandatory requirement.

4. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

5. Authorization to Travel

a. All travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the commissioner of administration. A file shall be maintained on all approved travel authorizations.

b. An annual authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to conferences or conventions.

6. Funds for Travel Expenses. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate credit card. Advances of funds for travel shall be made only for extraordinary travel and should be

punctually repaid when submitting the travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel. Exemptions: Cash advances may be allowed for:

a. employees whose salary is less than \$15,000/year;

b. employees who applied for the state-sponsored corporate credit card program but were rejected (proof of rejection must be available in agency travel file);

c. employees who accompany and/or are responsible for students on group or client travel;

d. new employees who have not had time to apply for and receive the card;

e. employees traveling for extended periods, defined as 31 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. advance ticket purchase (until a business travel account with a corporate credit card can be established);

h. registration for seminars, conferences, and conventions;

i. incidental costs not covered by the corporate credit card i.e. taxi fares, tolls, registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance;

j. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger receipt must be attached to the final reimbursement request;

k. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures.

7. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

8. State Credit Cards (Issued in the Name of the Agency Only). Credit cards issued in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the commissioner of administration.

9. No reimbursement when no cost incurred by traveler. No claim for reimbursement shall be made for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

B. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the commissioner of administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

2. Excepting where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger ticket shall be attached to the travel voucher.

3. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the Division of Administration.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

Section IV. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, cost of operation of a vehicle, cost and availability of common carrier services, etc.

B. Air

1. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

2. Before travel by privately-owned or by chartered aircraft is authorized by a department head, the traveler shall certify that: 1) at least one hour of working time will be saved by such travel; and 2) no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately-owned aircraft must be in accordance with the Procurement Code.

b. Reimbursement for use of a chartered or unchartered privately-owned aircraft under the above guidelines will be made on the following basis:

i. at the rate of 28 cents per mile; or

ii. at the lessor of state contract rate or coach economy airfare.

If there are extenuation circumstances requiring reimbursement for other than listed above, approval must be granted by the commissioner of administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

3. Commercial air travel will not be reimbursed in excess of state contract air rates when available, or coach/economy class rates when contract rates are not available. The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification will be attached to the travel voucher.

a. The state encourages but does not require use of lowest priced airfares where circumstances which can be documented dictate otherwise. Lowest logical fares are penalty tickets that can have restrictions and charge penalty fees for changing/canceling ticket purchases.

b. Where a stopover is required to qualify for a low-priced airfare, the state will pay additional lodging and meals expense subject to applicable limits where a net savings in total trip expenses results from use of the low-priced airfare. For determining whether there is a savings, the state contract airfare should be used for comparison, or coach/economy fare if there is no contract rate. If additional work time will be lost, then the cost of the traveler's time is to be used in the calculation. The comparison must be shown on the travel voucher.

c. The policy regarding airfare penalties is the state will pay the penalty incurred for a change in plans or cancellation only when the change or cancellation is required by the state. Certification of the requirement for the change or cancellation by the traveler's department head is required on the travel voucher.

d. For international travel only, when an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

4. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

5. If companion fares are purchased for a state employee and non-state employee, the reimbursement to the state employee will be the amount of the lowest logical fare.

6. Contract airfares are to be purchased only through the state's contracted travel agencies and are to be used for official state business. State contract airfares are non-penalty tickets. Therefore no penalty fees are charged for

changes/cancellations, and no restrictions are imposed on flight schedules. The state contract airfares cannot be used for personal/companion or spouse travel. This is a requirement of the airlines and our failure to monitor the use of these contract airfares could cause their cancellation. Therefore, tickets booked for non-official business under the contract rates will be subject to disciplinary action as well as payment of the difference between fare paid and full coach fare.

7. Traveler is to use the lowest logical airfare/state contract whether the plane is a prop or a jet.

8. Frequent Flyer miles and/or bump tickets accumulated from official state business must be used to purchase tickets for official business. Each individual is solely responsible for notification to their Agency or Department.

9. In order for the State to continue to receive State contracted airfares, it is necessary that the contract carrier be utilized when electing to use state contract rates. When using the Contract Airfares there are no restrictions or penalties. In many cases, airlines that did not win an award for a certain city, will now offer the same, lower price that was awarded to the contract vendor. This is known as a matched carrier. Matched carriers are not to be used unless there is two or more hours difference in the departure or arrival time. The State does not have a contract with the matched fare carriers; therefore, we do not have last seat availability and certain rules including cancellation penalties will apply to these fares. Note: Some carriers are now offering matched fares at the base cost, plus a surcharge for fuel. This is not considered a matched fare. Once the decision is made not to use the contract fare you are giving up your right to the non-penalty ticket, and must use the lowest logical fare available.

10. When making airline reservations for a conference, inform the travel agency that you are attending a conference giving the name of the conference and the airline that is offering the discount rate, if available. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

11. Use of Corporate Card (Currently American Express)

a. The State Travel Office contracts an official state corporate card to form one source of payment for travel. All travelers or agencies shall make application through the State Travel Office.

b. The corporate card or BTA (Business Travel Account) must be used to purchase contract airfare. This is a mandatory requirement by the airlines in order to continue to receive discount, non penalty state contract airline tickets.

c. The corporate card is the liability of the employee and not the state. An employee terminating state service must request their agency have their card cancelled. A retiree may no longer retain his/her card.

C. Motor Vehicle

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license.

2. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

3. State-Owned Vehicles

a. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number, the unit price, and quantity of the commodity purchased must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, a copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the monthly report mentioned in this subsection. State-owned credit cards will not be issued to travelers for use in the operation of privately-owned vehicles.

b. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and location of vendors by contacting the Purchasing Office, Division of Administration.

c. The travel coordinator/officer/user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer reading, credit card charges, dates, and places visited.

d. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

e. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interest of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

4. Personally-Owned Vehicles

a. When two or more persons travel in the same personally-owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of 28 cents per mile. (See acceptable mileage chart on page 23.)

c. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence.

d. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. Within the city limits where his/her office is located, the employee may be reimbursed for mileage only.

e. Reimbursements will be allowed on the basis of 28 cents per mile to travel between a common carrier/terminal and the employee's point of departure, i.e. home, office, etc., whichever is appropriate and in the best interest of the state.

f. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience, the traveler will be reimbursed for in-route expenses on the basis of 28 cents per mile only. The total cost of the mileage may not exceed the cost of travel by State Contract air rate or lowest logical if no contract rate is available. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take their personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

g. When a traveler is required to regularly use his/her personally-owned vehicle for agency activities, the agency head may request authorization from the commissioner of administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

h. The traveler shall be required to pay all operating expenses of the vehicle including fuel, repairs, and insurance.

5. Rented Motor Vehicles

a. Written approval of the department head prior to departure is required for the rental of vehicles. Such

approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the reimbursement files. This authority shall not be delegated to any other person.

b. Only the cost of rental of a compact model is reimbursable, unless 1) non-availability is documented, 2) the vehicle will be used to transport more than two persons or 3) the cost of a larger vehicle is no more than the rental rate for a compact.

c. Insurance billed by car rental companies is not reimbursable for domestic travel. At the discretion of the department head, CDW costs only may be reimbursed for international travel. Following are some of the insurance packages available by rental vehicle companies that are not reimbursable.

i. Collision Damage Waiver (CDW) – should a collision occur while on official state business, the cost of the deductible should be paid by traveler and reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management.

ii. Loss Damage Waiver (LDW)

iii. Personal Accident Insurance (PAC) Employees are covered under workmen's compensation while on official state business.

iv. Auto Tow Protection (ATP)

v. Emergency Sickness Protection (ESP)

vi. Supplement Liability Insurance (SLI)

d. Any personal mileage or rental days on a vehicle rented for official state business is not reimbursable and shall be deducted.

e. Reasonable gasoline cost is reimbursable but not mileage on a rental vehicle.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport limousines, and taxis is reimbursable when the expenses are incurred as part of approved state travel. Taxi reimbursement is limited to \$15 per day without receipts; claims in excess of \$15 per day require receipts to account for total daily amount claimed.

Section V. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 31 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 31 day period has been previously secured from the commissioner of administration.

2. Travel Period. Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast: when travel begins at/or before 6 a.m. and extends beyond 9 a.m. on single day travel; or when travel begins at/or before 6 a.m. on the first day of travel or extends beyond 9 a.m. on the last day of travel, and for any

intervening days.

b. Lunch: reimbursement shall only be made for lunch when 1) travel extends over at least one night or 2) if traveler is in travel status for 12 hours or more in duration. If travel extends overnight, lunch may be reimbursed for those days where travel begins at/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

c. Dinner: when travel begins at/or before 4 p.m. and extends beyond 8 p.m. on single day travel; or when travel begins at/or before 4 p.m. on the first day of travel or extends beyond 8 p.m. on the last day of travel and for any intervening days.

3. Alcohol. Reimbursement for alcohol is prohibited.

B. Exceptions

1. Twenty-Five Percent Over Allowances. Department heads may allow their employees to exceed the lodging and meals provisions of these regulations by no more than 25 percent on a case-by-case basis. Each case must be fully documented as to necessity (e.g. proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person. Reimbursement requests must be accompanied by receipt.

2. Actual Expenses for State Officers. State officers and others so authorized by statute (See Definitions under Authorized Persons) or individual exception will be reimbursed on an actual expenses basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. The request for reimbursement must be accompanied by a receipt or other supporting documents for each item claimed and shall not be extravagant and will be reasonable in relationship to the purpose of the travel. State officers entitled to actual expense reimbursements are only exempted from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Traveler's Meals (Including Tax and Tips). Travelers may be reimbursed up to the following amounts for meals.

	In-State	O/S Incl. N.O.	High Cost & N.Y.C.
Breakfast	\$6	\$6	\$8
Lunch	\$8	\$9	\$10
Dinner	<u>\$12</u>	<u>\$14</u>	<u>\$19</u>
	\$26	\$29	\$37

Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. Partial meals such as continental breakfasts or airline meals are not considered meals. If meals of state officials exceed these allowances, receipts are required.

D. Conference Meals

1. Cost of meals direct billed to agency in conjunction with state-sponsored in-state conferences exclusive of tax and mandated gratuity.

Lunch In-State excluding New Orleans	\$10
Lunch C New Orleans	\$12

Refreshment expenditures for a meeting, conference or convention are to be within the following rates: (note: refreshment expenses are not applicable to an individual

traveler) served on state property: not to exceed \$2.00 per person, per morning and/or afternoon sessions served on hotel properties: not to exceed \$3.50 exclusive of tax and mandated gratuity per person, per morning and/or afternoon sessions

E. Lodging (Employees will be reimbursed lodging rate, plus tax, Receipt Required)

\$55 In-state (except as listed)

\$60 Baton Rouge

\$70 Bossier City, Lake Charles, Shreveport

(Sulphur will be considered a suburb of Lake Charles)

\$80 New Orleans, (Gretna, Kenner, Metairie will be considered a suburbs of New Orleans, for lodging only)

\$65 Out-of-State (except those listed)

\$105 High cost (Atlanta, Baltimore, Boston, Chicago, Cleveland, Dallas, Detroit, Houston, Los Angeles, Miami, Nashville, Oakland, Ca., Philadelphia, Phoenix, Pittsburgh, Portland, Or., San Diego, San Francisco, St. Louis, Seattle, Tampa, Fl., Washington, D.C., Wilmington, De., all of Alaska or Hawaii)

\$165 New York City

The inclusion of suburbs for High Cost and New York City shall be determined by the department head on a case-by-case basis.

F. Conference Lodging (Employees will be reimbursed lodging rate, plus tax, Receipt Required)

1. Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. When reservations are not available at the conference hotel and multi-hotels are offered in conjunction with a conference, traveler shall seek prices and utilize the least expensive. In the event all conference hotels are unavailable, then the traveler is subject to making reservations within the hotel rates as allowed in Subsection E, above.

\$65 In-state (except as listed)

\$70 Baton Rouge

\$80 Bossier City, Lake Charles, Shreveport

\$100 New Orleans, state sponsored conferences

\$140 out-of-state and New Orleans for non-state sponsored conferences

\$165 New York City

*The inclusion of suburbs for New York City shall be determined by the department head on a case-by-case basis

2. For Conferences hosted by the state you must either use the state contracted travel services or solicit 3 competitive quotes to include sleeping rooms, meeting rooms, meals and breaks, etc.

3. No reimbursements are allowed for functions not relating to a conference, i.e. tours, dances, etc.

G. Extended Stays. For travel assignment involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

Section VI. Parking and Related Parking Expenses

1. Parking for the Baton Rouge Airport. Actual expense will be paid up to a maximum daily allowance of

\$3.50. No receipt required. (NOTE: current contract rate is available from the Baton Rouge Airport Parking for the outside, fenced lot. Not in the parking garage.)

2. Parking for the New Orleans Airport. Actual expense will be paid up to a maximum daily allowance of \$6.00. No receipt required. Park 'N Fly: \$6.00 daily and \$36.00 weekly.

3. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for all other parking except as listed in #1 and #2 above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

4. Tips for valet parking not to exceed \$1 per in and \$1 per out, per day.

Section VII. Reimbursement for Other Expenses

The following expenses incidental to travel may be reimbursed:

1. communications expenses relative to official state business (receipts required for over \$3). Employees on domestic overnight travel status can be reimbursed up to \$3 for one call home upon arrival at each destination in sequential nights and a call every second night after the first night if the travel extends several days. Employees on international travel can be reimbursed calls to their home for a \$10 per call upon arrival to and prior to departure from their destination (within the first or last 24 hours of the trip, respectively). For stays in excess of seven days, one \$10 call will be allowed for each additional week. An additional week will be defined to be at least four days in duration;

2. charges for storage and handling of state equipment;

3. tips for baggage handling not to exceed \$1 per bag for a maximum of three bags. For in-state baggage handling the above allowance may be paid one time upon arrival of each check in and one time upon departure of each check out where handling is applicable. For out-of-state and New Orleans baggage handling the above allowances may be paid twice upon arrivals and twice upon departures of each check in where applicable. (This is inclusive of the airport baggage handling.);

4. registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head);

5. laundry services. Employees on travel for more than seven days up to 14 days are eligible for \$20 of laundry services, and for more than 14 days up to 21 days an additional \$20 of laundry services, and so on. Receipts must be furnished.

Section VIII. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc, by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a twelve-hour weekday or six-hour weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the commissioner of administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in C, as follows.

C. A department head may authorize a special meal within allowable rates to be served in conjunction with a working meeting of departmental staff.

D. In such cases, the department will report on a semi-annual basis to the commissioner of administration all special meal reimbursements made during the previous six months. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the commissioner of administration to exceed this reimbursement limitation.

All of the following must be submitted for review and approval of the department head or their designee prior to reimbursement:

1. detailed breakdown of all expenses incurred, with appropriate receipts(s);

2. subtraction of cost of any alcoholic beverages;

3. copy of prior written approval from the commissioner of administration;

4. receipts.

Section IX. International Travel

A. All international travel must be approved by the commissioner of administration prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), the funding source from which reimbursement will be made, and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the high cost area rates for lodging and meals, unless U.S. State Department rates are requested and authorized by the commissioner of administration prior to departure. Receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates.

Section X. Waivers

The commissioner of administration may waive in writing any provision in these regulations when the best interest of the state will be served.

0006#117

Mark C. Drennen
Comissioner

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators C Character Education Program (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). School districts are required to develop a character education philosophy and implementation plan to work in conjunction with Act 149 of the 1998 First Extraordinary Session which required BESE to provide a clearinghouse for information on character education programs and to adopt rules and regulations for the implementation of nonsectarian character education programs in curricula.

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

* * *

Standard 1.087.00:

The school system shall develop character education philosophy and implementation plan consistent with locally developed curriculum.

AUTHORITY NOTE: Promulgated by the Board of Elementary and Secondary Education in R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 26:1260 (June 2000).

Weegie Peabody
Executive Director

0006#085

RULE

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of

Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment more clearly explains the policy by which School Performance Scores will be calculated, since high stakes testing goes into effect Spring 2000. Students that fail the fourth and eighth grade LEAP tests will be given the opportunity for remediation and retesting during the summer. The changes also include refinements in the state's accountability policy as it pertains to students with disabilities. Limits for alternate and out-of-level assessments have been established, as well as procedures for calculating inclusion of the scores from out-of-level testing in the School Performance Scores.

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).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 26:1260 (June 2000).

School Performance Scores

2.006.03 Only spring administration test data shall be used in the School Performance Score.

Inclusion of Students with Disabilities

2.006.18 Most students with disabilities shall take the CRT and the NRT tests 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 4 percent cap has been exceeded.

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.

Weegie Peabody
Executive Director

0006#084

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
Agency Decisions Subject to Appeal (LAC 28:IV.2109)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28

EDUCATION

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

Chapter 21. Miscellaneous Provisions and Exceptions

§2109. Agency Decisions Subject to Appeal

A. Right of Appeal

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

2. Appeals are made to the Louisiana Student Financial Assistance Commission (the commission).

3. Decisions of the commission are not subject to appeal and are final actions.

B. Notice of Adverse Decision

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

C. Petition of Appeal

1. A petition of appeal must be in writing and filed within 30 days of the date of the notice of the decision.

2. The petition of appeal must include:

a. a sworn affidavit from the petitioner setting forth the basis of the appeal, including the specific reasons that LOSFA's decision is incorrect, and all facts supporting the appeal;

b. copies of all documents, including written statements by others, if any, that support the appeal;

c. official transcripts from the school/colleges attended during the periods in question; and

d. if the petitioner desires to make an oral presentation and/or argument, the petitioner must include in the petition for appeal:

i. a request to make oral presentation and/or argument;

ii. the name of each person who will speak and a brief summary of what each person will say; and

iii. the reasons why presentation of the appeal in writing is not sufficient and that an oral presentation and/or argument is justified.

3. The petitioner is not required to include documents in the petition of appeal which were forwarded with previous correspondence regarding the appeal.

4. The petition of appeal must be addressed to the Louisiana Student Financial Assistance Commission, in care of the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to 1885 Wooddale Boulevard, Wooddale Tower, Room 335, Baton Rouge, Louisiana.

5. Oral Presentations and/or Arguments

a. The commission may allow presentations and/or arguments when the commission determines that such extraordinary procedures are justified based on information submitted by the petitioner.

b. LOSFA shall have the right to question the appellant and each person making an oral presentation on behalf of the appellant.

c. The commission's chairman may limit the time available to the appellant to make an oral presentation.

D. Appellate Procedure

1. After receipt of the Petition of Appeal, LOSFA will review the petition of appeal and determine whether the matters included in it are sufficient to change LOSFA's adverse decision. If, based upon new information submitted, LOSFA reverses its decision and approves the appeal, the petitioner will be notified in writing and no further action will be taken on the petition.

2. If LOSFA's decision remains adverse, LOSFA will prepare and forward the appellate's file (including the petition of appeal, the original request for reinstatement, LOSFA records relating to the appeal, and a written statement of LOSFA's position regarding the appeal to the ad hoc rules committee of the commission).

3. If the petition of appeal contains the appellant's request to make an oral presentation or argument, LOSFA shall notify the appellant in sufficient time to permit the appellant to be present when the appeal is scheduled to be heard by the ad hoc rules committee and the commission.

4. Pending a final decision by the commission, no further action will be taken in the matter by LOSFA.

5. The ad hoc rules committee will review the appellate file and make one of the following recommendations to the commission:

- a. recommend that LOSFA's decision be upheld; or
- b. recommend that LOSFA's decision be reversed;

or

c. remand the appellate file to LOSFA for further specified action(s); or

d. remand the appellate file to the commission without recommendation.

6. The ad hoc rules committee will forward the appellate file and its recommendation to the commission. The commission will review the recommendations of the committee and the appellate file.

7. The commission may adopt the recommendations of the committee or make a contrary decision approving or reversing LOSFA's decision, or remanding the matter to LOSFA for further specified actions.

8. Remanded matters will be expeditiously processed by LOSFA and returned to the commission for a final decision.

9. A decision of the commission to approve or reverse LOSFA's decision is final and is not subject to further review.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:000 (June 2000).

Melanie Amrhein
Assistant Executive Director

0006#062

RULE

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

Tuition Opportunity Program for Students (TOPS)
Eligible Student (LAC 28:IV.301, 701)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

* * *

Full-Time StudentC

a. - d. ...

e. 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, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:1262 (June 2000).

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

§701. General Provisions

A. - D. ...

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1. - 10. ...

11. Students enrolled and attending more than one college or university at the same time shall be awarded as follows.

a. Students attending two or more Louisiana public two or four-year colleges or universities shall receive a total amount not to exceed the amount that would be paid at the school with the highest tuition among those at which the student is simultaneously enrolled.

b. Students attending two or more regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) shall receive a total amount not to exceed the Weighted Average Award Amount, as defined in §301.

c. Students attending a combination of Louisiana public two or four-year colleges or universities and regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) shall receive a total amount not to exceed the amount that would be paid at the public school with the highest tuition among those at which the student is simultaneously enrolled or the Weighted Average Award Amount, whichever amount is greater.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 17:959 (October 1991), amended LR 22:338 (May 1996), LR 23:1645, 1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999) LR 26:67 (January 2000), LR 26:1262 (June 2000).

Melanie Amrhein
Assistant Executive Director

0006#063

RULE

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

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

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

Title 28

EDUCATION

**Part IV. Student Financial AssistanceC Higher
Education Scholarship and Grant Programs
Chapter 7. Tuition Opportunity Program for
Students (TOPS) Opportunity;
Performance and Honors Awards**

§703. Establishing Eligibility

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

ii. for purposes of satisfying the requirements of §703.A.5.a.i, above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science
Algebra I	Algebra I, Parts 1 and 2
Applied Algebra IA and IB	Applied Mathematics I and II

Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History

*Applied Mathematics III was formerly referred to as Applied Geometry

or

A.5.b. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:1263 (June 2000).

Melanie Amrhein
Assistant Executive Director

0006#061

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Student Tuition and Revenue Trust (START Saving)
Program (LAC 28:VI.307, 315)

The Louisiana Tuition Trust Authority (LATTA) hereby amends rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

Title 28

EDUCATION

Part VI. Student Financial AssistanceC Higher Education Savings

Subchapter A. Student Tuition Trust Authority

Chapter 3. Education Savings Account

§307. Allocation of Tuition Assistance Grants

A. - E.4. ...

F. Frequency of Allocation of Tuition Assistance Grants to Education Assistance Accounts. Tuition assistance grants will be allocated annually and reported to account owners after July 1, following the account owners' required disclosure of their prior year's reported federal adjusted gross income.

G. - H.2. ...

3. Tuition assistance grants, although allocated to a beneficiary's account and reported on the account owner's annual statements, are assets of the state of Louisiana until expended to pay a beneficiary's tuition at an eligible Louisiana institution.

H.4. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000).

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each account owner an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year;

b. total principal and interest accrued to the statement date; and

c. total tuition assistance grants and interest allocated to the account as of the statement date.

2. Tuition assistance grants shall be allocated annually and reported after July 1, following the account owners' required disclosure of their prior year's reported federal adjusted gross income.

3. The account owner must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Tuition Assistance Grants. Tuition assistance grants shall be allocated annually and reported to account owners by a separate letter of notification after July 1, following the account owners' compliance with §307.B of these regulations.

C. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to account owners after the conclusion of the calendar year in which the interest was earned.

C.2. - R. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000).

Mark S. Riley
Assistant Executive Director

0006#060

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Risk Evaluation/Corrective Action Program (RECAP)
(LAC 33:I.1305 and 1307;VII.305)(OS034)

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 Office of the Secretary regulations, LAC 33:I.1305 and 1307, and the Solid Waste regulations, LAC 33:VII.305 (Log #OS034).

This rule clarifies the Office of the Secretary and the Solid Waste regulations to reflect the department's intent and will adopt by reference the Risk Evaluation/Corrective Action Program (RECAP) document that is being revised as part of this rulemaking package. The RECAP revisions will provide clarification and corrections to text, tables, and figures of the

RECAP document. Clarifications of text will enhance the reader's understanding of the content of the document. Correction to errors in the document and movement of text will improve the RECAP document readability and help the regulated community understand the document. Some of these changes include: revisions to the Screening Option to determine if an area of concern requires further evaluation under a management option; upgrading the SIC codes to newly adopted NAICS codes; corrections to the RECAP standards tables; allowance of the SPLP method for the soil level protective of groundwater derivation for Management Options 1, 2, and 3; site investigation requirements expanded to provide more guidance to submitters; new RECAP submittal forms to enable both submitters and Department reviewers to find needed information more easily; and increased flexibility that may be granted by the Department of the submittal requirements for each screening or management option. The RECAP revisions will help ensure that a consistent method based on sound scientific principles is used and will continue to serve as a standard tool to assess impacts to soil, groundwater, surface water, and air. The basis and rationale for this rule are to establish uniformity for submitters in the program to minimize the time and money necessary to identify corrective action levels for constituents of concern at a contaminated site. This should encourage voluntary and expeditious remediation.

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 I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 13. Risk Evaluation/Corrective Action Program

§1305. Applicability

* * *

[See Prior Text In A - A.3]

B. This Chapter shall not apply to activities conducted in accordance with corrective action plans, closure plans, or closure standards that were approved by the department prior to December 20, 1998, except when modification of such a plan is deemed by the department to be necessary to protect human health or the environment or when modification of such a plan is otherwise allowed or required by the department in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000).

§1307. Adoption by Reference

The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)" dated June 20, 2000, is hereby adopted

and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday from the Louisiana Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 82178 (7290 Bluebonnet Boulevard, 4th Floor), Baton Rouge, LA 70884-2178. For RECAP document availability at other locations, contact the department's Regulation Development Section at (225) 765-0399. The RECAP document may also be reviewed on the Internet at <http://www.deq.state.la.us/technology/recap/index.htm>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assistance, Environmental Planning Division, LR 26:1264 (June 2000).

Part VII. Solid Waste

Chapter 3. Scope and Mandatory Provisions of the Program

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

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

* * *

[See Prior Text In A – B]

C. facilities which process or reuse on-site-generated, nonhazardous, petroleum-contaminated media and debris from underground storage tank corrective action, provided such processing or reuse is completed in less than 12 months and authorized by the Underground Storage Tank Regulations.

* * *

[See Prior Text In D – J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assistance, Environmental Planning Division, LR 26:1264 (June 2000).

James H. Brent, Ph.D.

Assistant Secretary

0006#068

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Transportation of Radioactive Material
(LAC 33:XV.Chapter 15)(NE021*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary has amended the Radiation Protection regulations, LAC 33:XV.1503, 1505, 1506, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, and Appendix A (Log #NE021*).

This rule is identical to federal regulations found in 60 FR 50264, September 28, 1995, Number 188, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule makes changes to packaging and transportation of radioactive material. The rule conforms state regulations with Nuclear Regulatory Commission (NRC) regulations and codifies criteria for packages used to transport plutonium by air. This action is necessary to ensure that state regulations reflect accepted NRC and international standards and comply with current federal legislative requirements. The basis and rationale for this rule are to maintain state compatibility with the NRC.

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 XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1502. Scope

A. Each licensee who transports licensed material outside the site of usage, as specified in the department license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the regulations in this Chapter and the applicable requirements of the U.S. DOT regulations appropriate to the mode of transport of U.S. DOT in 49 CFR parts 170-189.

B. The licensee shall particularly note U.S. DOT regulations in the following areas:

1. packaging C49 CFR part 173, subparts A, B, and I;
2. marking and labeling C49 CFR part 172, subpart D, paragraphs 172.400-172.407, 172.436-172.440, and subpart E.
3. placarding C49 CFR part 172, subpart F, paragraphs 172.500 -172.519, 172.556; and appendices B and C;
4. shipping papers and emergency information C49 CFR part 172, subparts C and G;
5. accident reporting C49 CFR parts 171.15 and 171.16;
6. hazardous material shipper/carrier requirements C49 CFR part 107, subpart G; and
7. hazardous material employee training—49 CFR part 172, subpart H.

C. The licensee shall also note U.S. DOT regulations pertaining to the following modes of transportation:

1. rail - 49 CFR part 174, subparts A - D and K;
 2. air - 49 CFR part 175;
 3. vessel - 49 CFR part 176, subparts A - F and M;
- and

4. public highway - 49 CFR part 177 and parts 390 - 397.

D. If U.S. DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. DOT specified in Subsection A of this Section to the same extent as if the shipment or transportation were subject to U.S. DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Director, Office of Nuclear Material Safety and Safeguards, U.S. NRC, Washington, DC 20555-0001.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000).

§1503. Definitions

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

A₁C the maximum activity of special form radioactive material permitted in a Type A package.

A₂C the maximum activity of radioactive material, other than special form, LSA, and SCO material, permitted in a Type A package. These values are either listed in LAC 33:XV.1517, or may be derived in accordance with the procedure prescribed in LAC 33:XV.1517

* * *

[See Prior Text]

Conveyance—for transport by public highway or rail, any transport vehicle or large freight container; for transport by water, any vessel, or any hold, compartment, or defined deck area of a vessel, including any transport vehicle on board the vessel; and for transport by aircraft, any aircraft.

Exclusive Use—the sole use by a single consignor of a conveyance and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

Fissile Material—plutonium-238, plutonium-239, plutonium-241, uranium-233, uranium-235, or any combination of these radionuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only are not included in this definition. Certain exclusions from fissile material controls are provided by the U.S. NRC in 10 CFR 71.53.

Low Specific Activity (LSA) Material—radioactive material with limited specific activity that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

- a. LSA-I:
 - i. ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores;
 - ii. solid unirradiated natural uranium, depleted uranium, or natural thorium or their solid or liquid compounds or mixtures;
 - iii. radioactive material, other than fissile material, for which the A_2 value is unlimited; or
 - iv. mill tailings, contaminated earth, concrete, rubble, other debris, and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed $10^{-6} A_2/g$.

- b. LSA-II:
 - i. water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or
 - ii. material in which the radioactive material is distributed throughout, and the average specific activity does not exceed $10^{-4} A_2/g$ for solids and gases, and $10^{-5} A_2/g$ for liquids.

c. LSA-III. Solids (e.g., consolidated wastes, activated materials) in which:

- i. the radioactive material is distributed throughout a solid or a collection of solid objects or is essentially uniformly distributed in a solid compact binding agent (e.g., concrete, bitumen, ceramic, etc.);
- ii. the radioactive material is essentially uniformly distributed throughout a solid or a collection of solid objects or is essentially uniformly distributed in a solid compact binding agent (e.g., concrete, bitumen, ceramic, etc.);
- iii. the radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for seven days, would not exceed $0.1 A_2$; and
- iv. the average specific activity of the solid does not exceed $2 \times 10^{-3} A_2/g$.

Low Toxicity Alpha Emitters—natural uranium, depleted uranium, and natural thorium; uranium-235, uranium-238, thorium-232, thorium-228, or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

Maximum Normal Operating Pressure—the maximum gauge pressure that would develop in the containment system in a period of one year under the heat condition specified by the U.S. NRC regulations in 10 CFR 71.71(c)(1), in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

Natural Thorium—thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

* * *

[See Prior Text]

Package—the packaging together with its radioactive contents as presented for transport.

- a. Fissile material package means a fissile material packaging together with its fissile material contents.
- b. Type B package means a Type B packaging together with its radioactive contents. On approval, a Type B package design is designated by the NRC as B(U) unless the package has a maximum normal operating pressure of more than 700 kPa (100 lb/in²) gauge or a pressure relief device

that would allow the release of radioactive material to the environment under the tests specified in U.S. NRC regulations 10 CFR 71.73, in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, see U.S. DOT regulations in 49 CFR part 173. A Type B package approved before September 6, 1983, was designated only as Type B. Limitations on its use are specified in LAC 33:XV.1509.

* * *

[See Prior Text]

Special Form Radioactive Material—radioactive material that satisfies the following conditions:

- a. it is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

- b. the piece or capsule has at least one dimension not less than 5 millimeters (0.197 inch); and

- c. it satisfies the test requirements specified by the U.S. NRC in 10 CFR 71.75. A special form encapsulation designed in accordance with the NRC requirements in 10 CFR 71.4 in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, must meet requirements of this definition applicable at the time of its design or construction. Any other special form encapsulation must meet the specifications of this definition.

* * *

[See Prior Text]

Surface Contaminated Object (SCO)—a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCOs must be in one of two groups with surface activity not exceeding the following limits:

- a. SCO-I. A solid object on which:

- i. the non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 Bq/cm² (10^{-4} microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 0.4 Bq/cm² (10^{-5} microcurie/cm²) for all other alpha emitters;

- ii. the fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4×10^4 Bq/cm² (1.0 microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 4×10^3 Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters; and

- iii. the non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4×10^4 Bq/cm² (1 microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 4×10^3 Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters.

- b. SCO-II. A solid object on which the limits for SCO-I are exceeded and on which:

- i. the non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 400 Bq/cm² (10^{-2} microcurie/cm²) for beta and gamma and low toxicity alpha

emitters or 40 Bq/cm^2 (10^{-3} microcurie/ cm^2) for all other alpha emitters;

ii. the fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed $8 \times 10^5 \text{ Bq/cm}^2$ (20 microcuries/ cm^2) for beta and gamma and low toxicity alpha emitters or $8 \times 10^4 \text{ Bq/cm}^2$ (2 microcuries/ cm^2) for all other alpha emitters; and

iii. the non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed $8 \times 10^5 \text{ Bq/cm}^2$ (20 microcuries/ cm^2) for beta and gamma and low toxicity alpha emitters, or $8 \times 10^4 \text{ Bq/cm}^2$ (2 microcuries/ cm^2) for all other alpha emitters.

Transport Index C the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined as follows:

a. for non-fissile material packages, the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter (3.3 ft)); or

b. for fissile material packages, the number determined by multiplying the maximum radiation level in mSv per hour at one meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 ft)), or for critical control purposes, the number obtained as described in the U.S. NRC regulations, whichever is larger.

Type A Quantity Ca quantity of radioactive material, the aggregate radioactivity of which does not exceed A_1 for special form radioactive material or A_2 for normal form radioactive material, where A_1 and A_2 are given in LAC 33:XV.1517 or may be determined by procedures described in LAC 33:XV.1517.

Type B Quantity Ca quantity of radioactive material greater than a Type A quantity.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1267 (June 2000).

§1508. General License: NRC Approved Packages

A. A general license is hereby issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the department.

B. This general license applies only to a licensee who:

1. has a quality assurance program approved by the department as satisfying the provisions of the U.S. NRC, 10 CFR 71, subpart H;

2. has a copy of the specific license, certificate of compliance, or other approval of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

3. complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Chapter; and

4. prior to the licensee's first use of the package, has registered with the U.S. NRC.

C. The general license in this Section applies only when the package approval authorizes use of the package under this general license.

D. For a Type B or fissile material package, the design of which was approved by the U.S. NRC before April 1, 1996, the general license is subject to additional restrictions of LAC 33:XV.1509.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1267 (June 2000).

§1509. Previously Approved Type B Packages

A. A Type B package previously approved by the U.S. NRC, but not designated as B(U) or B(M) in the identification number of the NRC Certificate of Compliance, may be used under the general license of LAC 33:XV.1508 with the following additional limitations:

1. fabrication of the packaging was satisfactorily completed by August 31, 1986, as demonstrated by application of its model number in accordance with U.S. NRC regulations;

2. the package may not be used for a shipment to a location outside the United States, except under special arrangement approved by the U.S. DOT in accordance with 49 CFR 173.403; and

3. a serial number that uniquely identifies each packaging that conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

B. A Type B(U) package, a Type B(M) package, a LSA material package, or a fissile material package previously approved by the U.S. NRC, but without the designation -85 in the identification number of the U.S. NRC Certificate of Compliance, may be used under the general license of LAC 33:XV.1508 with the following additional conditions:

1. fabrication of the package was satisfactorily completed by April 1, 1999, as demonstrated by application of its model number in accordance with U.S. NRC regulations;

2. a package used for a shipment to a location outside the United States is subject to multilateral approval as defined in U.S. DOT regulations at 49 CFR 173.403; and

3. a serial number that uniquely identifies each packaging that conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000).

§1510. General License: U.S. DOT Specification Container

A. A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in the regulations of the U.S. DOT at 49 CFR parts 173 and 178.

B. This general license applies only to a licensee who has a quality assurance program approved by the U.S. NRC as satisfying the provisions of 10 CFR part 71, subchapter H.

C. This general license applies only to a licensee who:

1. has a copy of the specification; and
2. complies with the terms and conditions of the specification and the applicable requirements of this Chapter.

D. The general license in Subsection A of this Section is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States, except by multilateral approval, as defined in U.S. DOT regulations at 49 CFR 173.403.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26

§1511. General License: Use of Foreign Approved Package

A. A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the U.S. DOT as meeting the applicable requirements of 49 CFR 171.12.

B. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the U. S. NRC as satisfying the applicable provisions of 10 CFR part 71, subpart H.

C. This general license applies only to shipments made to or from locations outside the United States.

D. This general license applies only to a licensee who:

1. has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment; and

2. complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this Chapter. With respect to the quality assurance provisions of 10 CFR part 71, subpart H, the licensee is exempt from design, construction, and fabrication considerations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000).

§1512. Routine Determinations

A. Before the first use of any packaging for the shipment of licensed material, the licensee shall:

1. ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;

2. where the maximum normal operating pressure will exceed 35 kPa (5 lbs/in²) gauge, test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure; and

3. conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number assigned by the U.S. NRC. Before applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. NRC.

B. Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this Chapter and of the license. The licensee shall determine that:

1. the package is proper for the contents to be shipped;
2. the package is in unimpaired physical condition except for superficial defects such as marks or dents;

3. each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

4. any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

5. any pressure relief device is operable and set in accordance with written procedures;

6. the package has been loaded and closed in accordance with written procedures;

7. for fissile material, any moderator or neutron absorber, if required, is present and in proper condition;

8. any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified by the U.S. NRC in 10 CFR 71.45;

9. the level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable and within the limits specified in U.S. DOT regulations at 49 CFR 173.443;

10. external radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified by the U.S. NRC in 10 CFR 71.47 at any time during transportation; and

11. accessible package surface temperatures shall not exceed the limits specified by the U.S. NRC in 10 CFR 71.43 at any time during transportation.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000).

§1513. Air Transport of Plutonium

A. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Chapter or included indirectly by citation of U.S. DOT regulations, as may be applicable, the licensee shall assure that plutonium in any form, whether for import,

export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

1. the plutonium is contained in a medical device designed for individual human application;
2. the plutonium is contained in a material in which the specific activity is not greater than 0.002 microcuries/gram (74 Bq/g) of material and in which the radioactivity is essentially uniformly distributed;
3. the plutonium is shipped in a single package containing not more than an A₂ quantity of plutonium in any isotope or form and is shipped in accordance with LAC 33:XV.1502; or
4. the plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the U.S. NRC.

B. Nothing in Subsection A of this Section is to be interpreted as removing or diminishing the requirements of U.S. NRC regulations in 10 CFR 73.24.

C. For a shipment of plutonium by air that is subject to Subsection A.4 of this Section, the licensee shall, through special arrangement with the carrier, require compliance with U.S. DOT regulations (49 CFR 175.704) applicable to the air transport of plutonium.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000).

§1514. Records

A. Each licensee shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under LAC 33:XV.1505, showing, where applicable:

1. identification of the packaging by model number and serial number;

* * *

[See Prior Text in A.2-6]

7. address to which the shipment was made;
8. results of the determinations required by LAC 33:XV.1512 and by the conditions of the package approval; and
9. in addition, for each item of irradiated fissile material:
 - a. identification by model number and serial number;
 - b. irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - c. any abnormal or unusual condition relevant to radiation safety.

B. The licensee shall make available to the department for inspection, upon reasonable notice, all records required by this Chapter. Records are only valid if stamped, initialed, or signed and dated by authorized personnel or otherwise authenticated.

C. The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by LAC 33:XV.1512, design, fabrication, and assembly records; results of reviews, inspections, tests, and

audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. The records must be retained for three years after the life of the packaging to which they apply.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000).

§1515. Reports

A. The licensee shall report to the department within 30 days:

1. any instance in which there is significant reduction in the effectiveness of any approved Type B or fissile packaging during use;
2. details of any defects with safety significance in Type B or fissile packaging after first use, with the means employed to repair the defects and prevent their recurrence; and
3. instances in which the conditions of approval in the Certificate of Compliance were not observed in making a shipment.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000).

§1516. Advance Notification of Transport of Nuclear Waste

* * *

[See Prior Text in A-B.2]

3. the quantity of licensed material in a single package exceeds the least of the following:

- a. 3000 times the A₁ value of the radionuclides, as specified in LAC 33:XV.1517, for special form radioactive material;
- b. 3000 times the A₂ value of the radionuclides, as specified in LAC 33:XV.1517, for normal form radioactive material; or
- c. 1000 TBq (27,000 Ci).

* * *

[See Prior Text in C-C.6]

D. The notification required by LAC 33:XV.1516.A shall be made in writing to the office of each appropriate governor or governor's designee and to the department. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by messenger must reach the office of the governor, or governor's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three years.

E. The licensee shall notify each appropriate governor, or governor's designee, and the department of any changes to schedule information provided in accordance with Subsection A of this Section. Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for three years a record of the name of the individual contacted.

F. Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the department. A copy of the notice shall be retained by the licensee for three years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000).

§1517. Incorporation by Reference

A. The department incorporates by reference 10 CFR part 71, appendix A (July 1, 1999).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000).

Appendix A. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000).

James H. Brent, Ph.D.
Assistant Secretary

0006#067

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Water Quality (LAC 33:IX.1701)(WP038)

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 Water Quality regulations, LAC 33:IX.1701 (Log #WP038).

This rule replaces original language that was mistakenly dropped on the initial promulgation of the rule into the *Louisiana Administrative Code*. It pertains to secondary containment requirements for tanks and tank batteries when they are in certain areas. This will clarify the language and make the grammatical structure of the sentence affected correct. It does not change the meaning or intent of the

original rule. The public has pointed out to the department that the error was present and requested a change to return the language to its original content. The basis and rationale for this rule are to correct the existing regulations to be consistent with the original Order 29-B of the Stream Control Commission, promulgated in accordance with R.S. 56:1435, Chapter 3, Part I.

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 IX. Water Quality Regulations

Chapter 17. Rules Governing Disposal of Waste Oil, Oil Field Brine, and All Other Materials Resulting from the Drilling for, Production of, or Transportation of Oil, Gas or Sulfur (As Amended January 27, 1953)

§1701. Adopted by the Stream Control Commission, State of Louisiana, Under Authority of Section 1435, Chapter 3, Part I, of Title 56, Louisiana Revised Statutes of 1950

* * *

(See Prior Text in A - C.4)

D. Each permanent oil tank or battery of tanks that are located within the corporate limits of any city, town, or village or where such tanks are closer than 500 feet to any highway or inhabited dwelling or closer than 1,000 feet to any school or church, or where such tanks are so located as to be deemed a hazard by the Stream Control Commission, must be surrounded by a dike (or fire wall) or retaining wall, of at least the capacity of such tank or battery of tanks, with the exception of such areas where such dikes (or fire walls) or retaining walls would be impossible such as in water areas. At the discretion of the Stream Control Commission, fire walls of 100 percent capacity can be required where other conditions or circumstances warrant their construction. (As amended December 13, 1963.) Tanks not falling in the above categories must be surrounded by a retaining wall, or must be suitably ditched to a collecting sump, each of sufficient capacity to contain the spillage and prevent pollution of the surrounding areas.

* * *

(See Prior Text in E - H)

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1435, Chapter 3, Part I.

HISTORICAL NOTE: Adopted by the Department of Wildlife and Fisheries, Office of Coastal and Marine Resources on January 27, 1953, amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1271 (June 2000).

James H. Brent
Assistant Secretary

0006#069

RULE

Department of Health and Hospitals Board of Pharmacy

Automated Medication System (LAC 46:LIII.Chapter 12)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Pharmacy Law, R.S. 37:1182, the Louisiana Board of Pharmacy hereby adopts LAC 46:LIII.Chapter 12. This rule shall take effect on July 1, 2000.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 12. Automated Medication Systems

§1201. Definitions

A. *Automated Medication System* includes, but is not limited to, a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, or delivery of medications, and which collects, controls, and maintains all transaction information. An automated medication system may be profile driven, non-profile driven, or a combination of both.

1. *Profile Driven* system requires that medication orders/prescriptions be reviewed by the pharmacist for appropriateness, dosage, and contraindications prior to, or concomitantly with, being entered into the system, and before access is allowed into the system for medication administration.

2. *Non-Profile Driven* system does not require prior or concomitant pharmacist review of medication order/prescriptions in order to gain access to the system for medication administration. A non-profile driven system may include, but is not limited to, a night drug cabinet, emergency drug kits, or floor stock/first dose cabinet.

3. *Floor Stock/First Dose Cabinet* a medication storage device, which shall be used by personnel, authorized by a protocol established by the pharmacist-in-charge, to gain access to doses as needed and first doses in patient care areas. In addition, a floor stock/first dose cabinet may be used to store medications in such specialty areas including, but not limited to emergency room, surgery suite, and endoscopy suites.

B. *Final Checks of Work* the requirement that only a pharmacist supervises and releases the completed product prepared by a pharmacy technician.

C. *On-Site Facility* the location of a building that houses a board permitted pharmacy.

D. *Off-Site Facility* the location of a building that houses a licensee of the Department of Health and Hospitals, but which does not house a board permitted pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000).

§1203. System(s) Registration

A. The entire system shall be registered with the board and facilities shall meet the following conditions:

1. Facility shall possess a:

- a. license from the Health Standards Section of the Department of Health and Hospitals; or

- b. Controlled Dangerous Substance License from the Health Standards Section of the Department of Health and Hospitals; or

- c. permit from the board.

2. Registration fee for a facility not permitted by the board is as identified in R.S. 37:1184.C.xii.

3. No registration fee will be assessed to a board permitted pharmacy.

4. Registration expires annually on June 30.

5. Initial application shall be completed and signed by the registrant of the facility and the pharmacist-in-charge of the system(s). The completed, signed application and required fee shall be submitted to the board office no later than 30 days prior to installation of the system.

6. Annual Renewal. The board shall mail an application for renewal to each registrant on or before May 1 each year. Said application shall be completed, signed, and, with annual renewal fee, returned to the board office to be received on or before June 1 each year.

7. Expired Registration. A registration that is not renewed shall be null and void. A renewal application for an expired registration shall be requested by the registrant and the completed, signed application may be referred to the board's Reinstatement Committee for disposition in accordance with R.S. 37:1230.

8. Reinstatement. The holder of a registration that has expired may be reinstated only upon written application to the board and upon payment of all lapsed fees and a penalty to be fixed by the board. Other conditions of reinstatement may be required at the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000).

§1205. Pharmacist-in-Charge Responsibilities

A. The pharmacist-in-charge shall be a Louisiana licensed pharmacist and has the following responsibilities:

1. assuring that the system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate record-keeping and security safeguards;

2. establishment of a quality assurance program prior to implementation of a system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of a system, which is evidenced by written policies and procedures developed by the pharmacist-in-charge;

3. provide 30 days written notice to the board of removal of the system;

4. define access to the system in policy and procedures of the pharmacy, in compliance with state and federal regulations;

5. assign, discontinue or change access to the system;

6. ensure that access to the medications complies with state and federal regulations as applicable; and

7. ensure that the system is stocked/restocked accurately and in accordance with established written pharmacy policies and procedures;

8. maintain or have access to all records of documentation specified in this Section for two years or as otherwise required by law;

9. notify each licensed prescriber that his medication orders/prescriptions are not restricted to the limited number of medications which are stocked within a facility's automated medication system by placing a prominent notice to that effect on the cover of or near the beginning of such patient's medical chart or medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1272 (June 2000).

§1207. Pharmacist Review

A. System shall be used in settings that ensure medication orders are reviewed by a pharmacist prior to administration and in accordance with established policies and procedures and good pharmacy practice. A policy and procedure protocol shall be adopted to retrospectively review medications which cannot be reviewed prior to administration, as provided in LAC 46:LIII.1209.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1272 (June 2000).

§1209. Policies and Procedures

A. The development of an Automated Medication System Policy and Procedures is the responsibility of the pharmacist-in-charge, who shall submit the complete Automated Medication System Policy and Procedures to the board for approval, on request. These policies and procedures shall be reviewed by the pharmacist-in-charge, at least annually and modified if needed, and such review documented. They shall include, but are not limited to, the following:

1. criteria for selection of medications to be stored in each system, provided that in facilities licensed by the Department of Health and Hospitals, but not by the board, the selection criteria shall not include the substitution by the pharmacist of a product that is not an equivalent drug product to the product originally prescribed by the physician or practitioner without the explicit consent of the physician or practitioner;

2. criteria for medications qualifying for use with a non-profile driven system and the locations and situations that this type of system can be used in;

3. information on the system as outlined below:

- a. access:
 - i. system entry;
 - ii. access codes;
 - iii. system access privileges;
 - iv. changing access privileges;
 - v. termination of user;
 - vi. temporary access codes;
 - vii. password assignment;
- b. controlled substances:
 - i. chain of custody;
 - ii. discrepancy resolution;
- c. data:
 - i. archiving;
 - ii. stored/uploading to database;
 - iii. backup;
- d. definitions;
- e. downtime procedures (see malfunction);
- f. emergency procedures;
- g. information security/confidentiality:

- i. patient information;
 - ii. medication information;
 - iii. transaction files;
 - iv. information update plan;
 - v. patient update plan;
 - vi. information access;
- h. inspection;
 - i. installation requirements;
 - j. maintenance, e.g., service and repair protocols;
 - k. medication administration:
 - i. medication and patient validation;
 - ii. administration verification;
 - l. medication security:
 - i. acquisition and disposition records;
 - ii. proof of delivery;
 - iii. chain of custody of controlled substances (institutions);
 - iv. security management and control;
 - v. medication loading and storage;
 - vi. medication loading records;
 - vii. medication containers;
 - viii. cross contamination;
 - ix. lot number control;
 - x. inventory;
 - xi. utilization review;
 - xii. research;
 - m. malfunction:
 - i. troubleshooting;
 - ii. power failure;
 - n. quality assurance/quality improvement:
 - i. documentation and verification of proper loading and refilling of device;
 - ii. removal of drugs for administration, return, or waste;
 - iii. recording, resolving, and reporting of discrepancies;
 - iv. periodic audits to assure compliance with policies and procedures;
 - o. reports:
 - i. system maintenance;
 - ii. administrative functions;
 - iii. inventory;
 - iv. error;
 - v. discrepancies;
 - vi. activity;
 - vii. problem;
 - p. medication inventory:
 - i. management;
 - q. staff education and training;
 - r. system set-up.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy LR 26:1272 (June 2000).

§1211. Documentation

A. Documentation as to type of equipment, serial number, content, policies and procedures and location shall be maintained on-site in the pharmacy for review by the board. Such documentation shall include, but is not limited to:

1. name, address, and permit number of the pharmacy or licensed health care facility where the system is operational;

2. manufacturer's name and model;
3. quality assurance policies and procedures to determine continued appropriate use and performance of the system;
4. policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance security, quality assurance, medication inventory, staff education and training, system set-up and malfunction procedures; and
5. a current copy of all pharmacy policies and procedures related to the use of the system shall be maintained at all off-site facility locations where the system is being used, as well as the pharmacy of the pharmacist-in-charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000).

§1213. Records

A. Records and/or electronic data kept by system shall meet the following requirements:

1. all events involving access to the contents of the system shall be recorded electronically;
2. these internal records shall be maintained for one year by the pharmacist-in-charge and shall be readily available to the board. Such records shall include:
 - a. identity of system accessed;
 - b. identification of the individual accessing the system;
 - c. type of transaction;
 - d. name, strength, dosage form, and quantity of the drug accessed;
 - e. name of the patient, or identification numbers for whom the drug was ordered;
 - f. identification of the certified pharmacy technician or pharmacist stocking or restocking the medications in the system; and
 - g. such additional information as the pharmacist-in-charge may deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000).

§1215. Security System(s)

A. System shall have adequate security system and procedures, evidenced by written pharmacy policies and procedures, to:

1. prevent unauthorized access or use;
2. comply with any applicable federal and state regulations; and
3. maintain patient confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000).

§1217. Stocking and Restocking

A. On-Site Facility System(s). The stocking and restocking of all medications in the on-site system shall be accomplished by Louisiana licensed pharmacists and/or Louisiana certified pharmacy technicians under the supervision of Louisiana licensed pharmacists. A pharmacist

must conduct final checks of work performed by a pharmacy technician. The pharmacy shall have a mechanism in place to identify the certified pharmacy technician stocking or restocking and the pharmacist checking the accuracy of the medications to be stocked or restocked in the Automated Medication Systems.

B. Off-Site Facility System(s). The stocking and restocking of all medications in the off-site system shall be accomplished by Louisiana licensed pharmacists; however, the certified pharmacy technician may stock or restock an off-site facility system provided a pharmacist is physically present at the off-site facility and supervises and verifies the stocking and/or restocking prior to use. The pharmacy shall have a mechanism in place to identify the certified pharmacy technician stocking or restocking and the pharmacist checking the accuracy of the medications to be stocked or restocked in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000).

§1219. Packaging and Labeling

A. All containers of medications stored in the system shall be packaged and labeled in accordance with federal and state laws and regulations and contain an established satisfactory beyond use date based on U.S.P. standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000).

§1221. Proof of Use

A. For medication removed from the system for patient administration, the system shall document, at a minimum, the following information:

1. name of the patient or resident;
2. patient's or resident's medical record number or identification number, or room and bed number;
3. date and time medication was removed from the system;
4. name, initials, or other unique identifier of the person removing the drug;
5. name, strength, and dosage form of the medication or description of the medical device removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000).

§1223. Wasted, Discarded, or Unused Medications

A. The system shall provide a mechanism for securing and accounting for wasted, discarded, or unused medications removed from the system according to policies and procedures, and existing state and federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000).

§1225. Inspection

A. System records shall be available and readily retrievable for board inspection and review during regular working hours of operation. The system itself is also subject to inspection at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1273 (June 2000).

§1227. Out-of-State Pharmacies

A. Out-of-state pharmacies must have applied for and been issued an out-of-state pharmacy permit by the board as identified in regulations. Out-of-state pharmacies must have the proper pharmacy permit issued by the state in which they reside in order to utilize a system in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1274 (June 2000).

§1229. Violations; Penalties

A. The board may refuse to issue or renew, or may revoke, summarily suspend, suspend, place on probation, censure, reprimand, issue a warning against, or issue a cease and desist order against, the licenses or the registration of, or assess a fine/civil penalty or costs/administrative costs against any person pursuant to the procedures set forth in R.S. 37:1245, for any violation of the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1274 (June 2000).

§1231. Revised Statutes and Louisiana Administrative Code

A. These regulations shall be read and interpreted jointly with Chapter 14 of Title 37 of the Revised Statutes and Part LIII of Title 46 of the *Louisiana Administrative Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1274 (June 2000).

Malcolm Broussard
Executive Director

0006#109

RULE

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code C Water Supplies (Chapter XII)

Editor's Note: This rule is being reprinted in its entirety to correct printing errors in the previous edition of the *Louisiana Register*.

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) hereby amends Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are deemed necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141). One of the

main reasons for these amendments is to implement a rule which will provide the state health officer the authority to use an optional procedure for calculating penalties related to public water systems which serve greater than 10,000 individuals when they fail to comply with a provision of an administrative compliance order issued pursuant to R.S. 40:5.9. Also, the existing definition/term "public water supply" is deleted and reenacted as "public water system" to make it equivalent to the recently revised federal definition. In addition, several other items are also being amended/adopted to ensure that DHH-OPH clearly has state-level requirements equivalent to federal regulations. Sections 12:004-1 and 12:004-2 regarding turbidity monitoring are repealed in their entirety since they are out of date and no longer applicable. Turbidity monitoring is now required under the Louisiana Surface Water Treatment Rule (see LR 17:271, March 20, 1991).

The Louisiana Total Coliform Rule (see LR 17:670, July 20, 1991) which was adopted as an addendum to Chapter XII is now designated as "Appendix C" of Chapter XII. The Louisiana Surface Water Treatment Rule which was adopted in 1991 without notation to its location in the context of the various state regulations is now incorporated into Chapter XII as "Appendix D".

The revisions relative to the optional penalty calculation method and the new definition/term "public water system" are specifically necessary due to a federal rule promulgated by USEPA in the Federal Register dated April 28, 1998 (Volume 63, Number 81, pages 23366 through 23368), which is entitled "Revisions to State Primacy Requirements to Implement Safe Drinking Water Act Amendments". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996).

This rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accord with R.S. 49:972(B)(6) local governmental units may be affected if they own or operate a public water system serving greater than 10,000 individuals, are issued an administrative compliance order by the state health officer, violate one or more provisions of such order after the compliance deadline(s) specified therein expires, and the state health officer decides to impose a monetary penalty for such non-compliance using the new authority granted by this proposed rule. Local governmental units owning or operating a public water system are already subject to the requirements of the existing Civil Penalty Assessment Rule; therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

Authority and historical footnotes have been added beneath various sections in preparation for the eventual codification of Chapter XII (Water Supplies) in the *Louisiana Administrative Code*. Further work will be needed to be done in future revisions to complete footnoting of other sections in preparation for such codification.

For the reasons set forth above, Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is amended as follows:

Sanitary Code, State of Louisiana

Chapter XII (Water Supplies)

12:001 Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

Abandoned WellCa water well that has been permanently discontinued; has had its pumping equipment permanently removed; is in such a state of disrepair that it cannot be used to supply water and/or has the potential for transmitting surface contaminants into the aquifer; poses potential health or safety hazards or the well is in such a condition that it cannot be placed in service.

Auxiliary IntakeAny piping connection or other device whereby water may be secured from a source other than that normally used.

BackflowC

(1) a flow condition, induced by a differential pressure, that causes the flow of water or other liquid into the distribution pipes of a potable water supply from any source or sources other than its intended source, or

(2) the backing up of water through a conduit or channel in the direction opposite to normal flow.

Backflow PreventerCa device for a potable water supply pipe to prevent the backflow of water of questionable quality into the potable water supply system.

Back SiphonageCa form of backflow caused by negative or subatmospheric pressure within a water system.

Boil NoticeCan official order authorized by the State Health Officer to the owner/users of a specific water supply, directing that water from that supply be boiled according to directions, or otherwise disinfected prior to human consumption.

By-PassAny system of piping or other arrangement whereby the water may be diverted around any part or portion of a water supply or treatment facility.

CategoryCa group of parameters for which certification is offered.

Certification FeeCthe annual charge assessed laboratories requesting certification from the Department of Health and Hospitals to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water systems.

Committee of CertificationCthe committee, created by R.S. 40:1141 through 1151, responsible for certification of waterworks operators and sewerage works operators.

Community Water SupplyCa public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

ContaminantAny physical, chemical, biological, or radiological substance or matter in water.

Cross ConnectionC

(1) a physical connection through which a supply of potable water could be contaminated or polluted, or

(2) a connection between a supervised potable water supply and an unsupervised supply of unknown potability.

DrainAny pipe which carries waste water or water-borne waste in a building drainage system.

Drainage SystemC(drainage piping) includes all the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal, but does not include the mains of a public sewer system or a private or public sewage treatment plant.

Ground WaterCsubsurface water occupying the saturation zone from which wells and springs are fed. In a strict sense the term applies only to water below the water table.

InterconnectionCa physical connection between two water supply systems.

Laboratory Certification ManualCthe reference book which contains the Department of Health and Hospitals' regulations governing laboratory certification and standards of performance for laboratories conducting drinking water analyses for public water supplies in the state of Louisiana.

Laboratory Certification ProgramCa program carried out by the Department of Health and Hospitals, Office of Public Health and Office of Licensing and Certification to approve commercially and publicly owned laboratories to perform compliance monitoring of public water supplies in accordance with the National Primary Drinking Water Regulations and Chapter XII of the State Sanitary Code. The cost of the program will be recouped from the laboratories requesting certification.

Laboratory Requesting CertificationCan uncertified laboratory which has submitted an acceptable application and appropriate fee(s) for the category in which it desires certification.

Louisiana Water Well Rules, Regulations, And StandardsCthe November 1985 Edition, promulgated by the Louisiana Office of Public Works, Department of Transportation and Development, under provisions of State Act 535 of 1972 (R.S. 38:3091 et seq.).

Maximum Contaminant Level (MCL)Cthe highest permissible concentration of a substance allowed in drinking water as established by the U.S. Environmental Protection Agency.

National Primary Drinking Water RegulationsCregulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1997 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

i.) Subpart H - Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75), and

ii.) Subpart M - Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144).

National Secondary Drinking Water RegulationsCregulations (40 CFR Part 143) promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of P.L. 99-339, the "Safe Drinking Water Act," and as published in the Federal Register of July 19, 1979, pages 42,195 through 42,202 and April 2, 1986, page 11,412.

Noncommunity Water SupplyCa public water system that does not meet the criteria for a community water supply and serves at least 25 individuals (combination of residents and transients) at least 60 days out of each year. A non-

community water supply is either a "transient non-community water supply" or a "non-transient non-community water supply".

Nontransient Noncommunity Water SupplyCa public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

OperatorCthe individual, as determined by the Committee of Certification, in attendance, onsite of a water supply system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

PermitCa written document issued by the State Health Officer through the Office of Public Health which authorizes construction and operation of a new water supply or a modification of any existing supply.

Potable WaterCwater having bacteriological, physical, radiological, and chemical qualities that make it safe and suitable for human drinking, cooking and washing uses.

Potable Water SupplyCa source of potable water, and the appurtenances that make it available for use.

Private Water SupplyCa potable water supply that does not meet the criteria for a public water supply.

Public Water SupplyC"public water system".

Public Water SystemCa system for the provision to the public of water for potable water purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes:

(a) Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and,

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

A public water system is either a "community water supply" or a "non-community water supply".

ReservoirCa natural or artificial lake or impoundment for storage of water (either raw or treated) used or proposed to be used for potable purposes.

Sanitary Well SealCa suitable threaded, flanged, or welded water-tight cap or compression seal installed at the top of the well casing so as to prevent the entrance of contaminated water or other objectionable material into the well.

Service ConnectionCthe pipe from the water main and/or water meter, water supply system or other source of water supply to the building or structure served.

Source of Water SupplyAny well, spring, cistern, infiltration gallery, stream, reservoir, pond, or lake from which, by any means, water is taken either temporarily or continuously for potable use.

Surface WaterCderived from water sources on the surface of the earth such as streams, ponds, lakes, or reservoirs.

Ten-State StandardsCthe *Recommended Standards for Water Works* (1982 Edition)* or *Recommended Standards for Sewage Works* (1978 Edition)* promulgated by the Great Lakes and Upper Mississippi River Board of State Sanitary Engineers and any modifications and additions to these

Standards which the State Health Officer may establish in this Chapter.

Transient Non-Community Water SupplyCa non-community water supply that does not regularly serve at least 25 of the same persons over six months per year.

Treatment Technique RequirementCa treatment process/standard which has been established in lieu of a maximum contaminant level when, in the State Health Officer's judgement, it is not economically or technologically feasible to ascertain the level of a contaminant in water intended for potable purposes.

Vacuum BreakerCa device for relieving a vacuum or partial vacuum formed in a pipeline, thereby preventing back siphonage.

Water Well (Well)Can artificial excavation that derives water from the interstices of the rocks or soil which it penetrates.

*NOTE: Published by: Health Education Service, P. O. Box 7126, Albany, New York 12224

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 15:969 (November 1989), LR 17:781 (August 1991), LR 20:545 (May 1994), LR 26:1275 (June 2000).

12:002-1 General Requirements

Every potable water supply which is hereafter constructed, or reconstructed, or every existing water supply which the State Health Officer determines is unsafe, shall be made to comply with the requirements of the Code.

12:002-2 Permit Requirements

No public water supply shall be hereafter constructed, operated or modified to the extent that the capacity, hydraulic conditions, functioning of treatment processes, or the quality of finished water is affected, without, and except in accordance with, a permit from the State Health Officer. No public water supply shall be constructed or modified to the extent mentioned above except in accordance with the plans and specifications for the installation which have been approved, in advance, as a part of a permit issued by the State Health Officer prior to the start of construction or modification. Detailed plans and specifications for the installation for which a permit is requested shall be submitted by the person having responsible charge of a municipally owned public water supply or by the owner of a privately owned public water supply. The review and approval of plans and specifications submitted for issuance of a permit, will be made in accordance with the "Ten-State Standards" and the *Louisiana Water Well Rules, Regulations, and Standards*, plus any additional requirements of the State Health Officer as set forth in this Chapter.

12:002-3 Permits issued, and approvals of plans and specifications granted prior to the effective date of this Code shall remain in effect as they pertain to the design of the supply unless the revision of such is determined necessary by the State Health Officer.

12:002-4 Water supplied for potable purposes shall be:

- (a) obtained from a source free from pollution; or
- (b) obtained from a source adequately protected by natural agencies from the effects of pollution; or
- (c) adequately protected by artificial treatment.

12:002-5 Water Quality Standards

Each public water supply shall comply with the maximum contaminant levels or treatment technique requirements prescribed in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D). The State Health Officer, upon determining that a risk to human health may exist, reserves the right to limit exposure to any other contaminant. Further, each public water supply should comply with the National Secondary Drinking Water Regulations. Treatment to remove questionable characteristics shall be approved by the State Health Officer.

Each public water supply shall comply with the monitoring and analytical requirements specified in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. A laboratory certification program has been established to approve commercially and publicly owned laboratories to perform chemistry compliance monitoring for public water supplies. Laboratories seeking certification in any chemistry category for which certification is offered must adhere to the rules and regulations governing laboratory certifications as contained in the Department of Health and Hospitals' Laboratory Certification Manual dated September 1989. An annual certification fee will be assessed laboratories seeking certification from the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984) as section 12:002-4, contents renumbered as section 12:002-5 and amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 15:969 (November 1989), LR 26:1279 (June 2000).

12:002-6 Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer in accord with Sections 1415 and 1416 of the Safe Drinking Water Act, P.L. 99-339. Upon receipt of a variance and/or exemption, the owners of the public water supply shall appraise their supply and submit within one hundred eighty (180) days compliance and implementation schedules to correct the noncompliance for which the variance and/or exemption was issued. Such compliance and implementation schedule when approved by the State Health Officer shall be executed in accord therewith.

12:003-1 Responsibility of Owner

It shall be the duty of the Mayor, or the person having responsible charge of a municipally owned water supply, or the legal or natural person owning a public water supply, to take all measures and precautions which are necessary to secure and ensure compliance with this Chapter of the Code, and such persons shall be held primarily responsible for the execution and compliance with regulations of this Code. A printed copy of this Chapter of the Code shall be kept permanently posted in the office used by the authority owning or having charge of a public water supply.

12:003-2 Plant Supervision and Control

All public water supplies shall be under the supervision and control of a competent operator. The operator of public water supplies serving more than 500 persons shall be certified as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (R.S. 40:1141-1151).

12:003-3 Records

Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of two years on forms approved by the State Health Officer. Copies of these records shall be provided to the office designated by the State Health Officer within ten (10) days following the end of each calendar month.

12:003-4 Public Notification

If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the supplier of water shall notify persons served by the system of the failure in a manner prescribed by the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), or the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the State Health Officer within the applicable time limit(s) stipulated by the National Primary Drinking Water Regulations or the Louisiana Surface Water Treatment Rule (Appendix D) and such data (e.g., turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification. The water supply, within ten days subsequent to the completion of each public notification shall submit to the State Health Officer a representative copy of each type of notice distributed, published, posted and/or made available to the persons served by the supply and/or to the news media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 26:1277 (June 2000).

12:003-5 Security

All public water supply wells, treatment units, tanks, etc., shall be located inside a fenced area that is capable of being locked; said areas shall be locked when unattended. The fence shall be resistant to climbing and at least six feet high.

12:005 Reporting Changes in Public Water Supplies

No person owning, or having by law the management control of any public water supply, shall take or cause to be taken for use for potable purposes, water from any auxiliary source other than a source or sources of water approved by the State Health Officer, or shall make any change whatsoever which may affect the sanitary quality of such water supply, without first having notified the State Health

Officer. Also, any violation of the National Primary Drinking Water Regulations shall be reported to the State Health Officer within 48 hours after learning of any violation.

12:006 Filtration

All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used in the filtration of surface waters.

12:007 Treatment Chemicals

Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet the guidelines for potable water applications established by the U.S. Environmental Protection Agency.

12:008-1 Ground Water Supplies

All potable ground water supplies shall comply with the following requirements:

12:008-2 Exclusion of Surface Water From Site

The ground surface within a safe horizontal distance of the source in all directions shall not be subject to flooding (as defined in footnote 4 of 12:008-3) and shall be so graded and drained as to facilitate the rapid removal of surface water. This horizontal distance shall in no case be less than fifty (50') feet for potable water supplies.

12:008-3 Distances to Sources of Contamination

Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination, including but not limited to, privies, cesspools, septic tanks, subsurface tile systems, sewers, drains, barnyards and pits below the ground surface. The horizontal distance from any such possible source of pollution shall be as great as possible, but in no case less than the following minimum distances, except as otherwise approved by the State Health Officer:

Source	Distance in Feet
Septic tanks	50
Storm or sanitary sewer	50 ¹
Cesspools, outdoor privies, oxidation ponds, subsurface absorption fields, pits, mechanical sewage treatment plants, etc.	100 ²
Another water-well	25 ³
Sanitary landfills, feed lots, manure piles, solid waste dumps and similar installations	100
Drainage canal, ditch or stream	50 ⁴

¹ This distance may be reduced to 30 feet if the sewer is of cast iron with leaded joints or Schedule 40 plastic pipe with water-tight joints.

² For a private water well this distance may be reduced to 50 feet.

³ This minimum distance requirement does not take into consideration the effects of interference from pumping nearby wells in the same aquifer.

⁴ Horizontally measured from the water's edge to the well at the highest water level which may have occurred in a 10-year period.

12:008-4 Leakage From Toilets And Sewers

No toilet, sewer, soil pipe or drain shall be located above or where leakage therefrom can reach any water storage basin, reservoir or source of water supply.

12:008-5 Pits Near Water Supply

There shall be no unauthorized pits or unfilled spaces below level of ground surface, any part of which is within fifty feet of such water supply, except properly constructed well, pump, or valve pits as covered under Section 12:009-5 of this Chapter.

12:008-6 Satisfactory Earth Formation Above The Water Bearing Stratum

The earth formations above the water-bearing stratum shall be of such character and depth as to exclude contamination of the source of supply by seepage from the surface of the ground.

12:008-7 Minimum Depth of Casings and Curbings

All well and spring basin casings or curbings shall extend a safe distance below the ground surface. The minimum depth of casings or curbings shall not be less than 50 feet in the case of public water supplies and not less than 10 feet in the case of private water supplies.

12:008-8 Height of Casings and Curbings

In wells with pipe casings, the casings shall project at least twelve inches above ground level or the top of the cover or floor, and the cover or floor shall slope away from the well casing or suction pipe in all directions. Dug well linings shall extend at least twelve inches above the ground surface and cover installed thereon. The cover shall be watertight, and its edges shall overlap and extend downward at least two inches over the walls or curbings of such wells. In flood-prone areas the top of the casing shall be at least two feet above the highest flood level which may have occurred in a ten year period, but in no case less than two feet above the ground surface.

12:008-9 Grouting

The annular space between the well casing and the bore hole shall be sealed with cement-bentonite slurry or neat cement. Community public supply wells shall be cemented to their full depth from the top of the producing aquifer to the ground surface; noncommunity public supply wells shall be cemented from a minimum depth of 50 feet to the ground surface; and private supply wells shall be cemented from a minimum depth of 10 feet to the ground surface.

12:008-10 Cover or Floors

Every dug well, spring, or other structure used as a source of potable water, or for the storage of potable water, shall be provided with a watertight cover. Covers and every pump room floor shall be constructed of concrete or similar impervious material, and shall be elevated above the adjacent ground level and sloped to facilitate the rapid removal of water so as to provide drainage from the cover or floor and prevent contamination of the water supply. Such cover or floor shall be constructed so that there are no copings, parapets, or other features which may prevent proper drainage, or by which water can be held on the cover. Concrete floors or cover slabs shall be of such thickness and so reinforced as to carry the load which may be imposed upon it, but in no case less than four inches thick.

12:008-11 Potable Water Well Seals and Covers

Every potable water well shall be provided with a watertight sanitary well seal at the top of the casing or pipe sleeve. For wells with solid pedestal foundations, the well casing shall project at least one inch above the level of the foundation, and a seal between the well casing and the opening in the pump base plate shall be used to effectively seal the base plate to the well casing.

12:008-12 Potable Water Well Casing Vents

All potable water well casings shall be vented to atmosphere as provided in Section 12:008-13 of this Code, with the exception that no vent will be required when single-pipe jet pumps are used.

12:008-13 Potable Water Well Vents

All potable water well vents shall be so constructed and installed as to prevent the entrance of contamination. All vent openings shall be piped water tight to a point not less than 24 inches above the highest flood level which may have occurred in a ten year period, but in no case less than 24 inches above the ground surface. Such vent openings and extensions thereof shall be not less than 1/2 inch in diameter, with extension pipe firmly attached thereto. The openings of the vent pipes shall face downward and shall be screened to prevent the entrance of foreign matter.

12:008-14 Manholes

Manholes may be provided on dug wells, reservoirs, tanks, and other similar water supply structures. Every such manhole shall be fitted with a watertight collar or frame having edges which project at least two inches above the level of the surrounding surface, and shall be provided with a solid watertight cover having edges which overlap and project downward at least two inches around the outside of the frame. The cover shall be kept locked at all times, except when it is necessary to open the manhole.

12:008-15 Well Construction Standards

All wells constructed to serve a potable water supply shall be constructed in accordance with *Louisiana Water Well Rules, Regulations, and Standards*. Drillers of wells to serve a potable water supply will comply with the requirements for licensing of water well drillers under State Act No. 715 of 1980 (R.S. 38:2226, 38:3098-3098.8) which is administered by the Louisiana Office of Public Works.

12:008-16 Sampling Tap

All potable water supply wells shall be provided with a readily accessible faucet or tap on the well discharge line at the well for the collection of water samples. The faucet or tap shall be of the smooth nozzle type, shall be upstream of the well discharge line check valve and shall terminate in a downward direction.

12:008-17 Disinfection of Wells

All new wells or existing wells on which repair work has been done shall be disinfected before being put into use as prescribed in Section 12:020-2 of this Chapter.

12:009-1 Construction and Installation of Pumps

All water pumps shall be so constructed and installed as to prevent contamination of the water supply.

12:009-2 Hand Pump Head and Base

Every hand-operated pump shall have the pump head closed by a stuffing box or other suitable device to exclude contamination from the water chamber. The pump base shall

be of solid one-piece recessed type of sufficient diameter and depth to admit the well casing as hereinafter provided. The top of the casing or sleeve of every well, equipped with such a pump, shall project into the base of the pump at least one inch above the bottom thereof and shall extend 12 inches above the level of the platform, well cover, or pump room floor on which the pump rests. The pump shall be fastened to the casing or sleeve. The pumps shall be of the self-priming type.

12:009-3 Power Pump

Where pumps or pump motors are placed directly over the well, the pump or motor shall be supported on a base provided therefor. The well casing shall not be used to support pump or motor. This requirement shall not apply to submersible pumps/motors and single-pipe jet pumps/motors. The pump or motor housing shall have a solid watertight metal base without openings to form a cover for the well, recessed to admit the well casing or pump suction. The well casing or pump suction shall project into the base at least one inch above the bottom thereof, and at least one inch above the level of the foundation on which the pump rests. The well casing shall project at least 12 inches above ground level or the top of the floor.

12:009-4 Where power pumps are not placed directly over the well, the well casing shall extend at least twelve inches above the floor of the pump house. In flood-prone areas the top of the casing shall extend at least two feet above the highest flood level which may have occurred in a ten year period, but in no case less than two feet above the ground surface. The annular space between the well casing and the suction pipe shall be closed by a sanitary well seal to prevent the entrance of contamination.

12:009-5 Well, Pump, Valve, and Pipe Pits

No well head, well casing, pump, or pumping machinery shall be located in any pit, room, or space extending below ground level, or in any room or space above the ground which is walled in or otherwise enclosed so that it does not have drainage by gravity to the surface of the ground, except in accordance with design approved by the State Health Officer, provided, that this shall not apply to a dug well properly constructed as herein prescribed.

12:009-6 Pump House

All pump houses shall be properly constructed to prevent flooding, and shall be provided with floor drainage.

12:009-7 Lubrication of Pump Bearings

Well pump bearings shall be lubricated with oil of a safe, sanitary quality or potable water.

12:009-8 Priming of Power Pumps

Power pumps requiring priming shall be primed only with potable water.

12:009-9 Priming of Hand Pumps

Hand-operated pumps shall have cylinders submerged so that priming shall not be necessary. No pail and rope, bailer, or chain-bucket systems shall be used.

12:009-10 Airlift Systems

The air compressor and appurtenances for any airlift system or mechanical aerating apparatus used in connection with a potable ground water supply, shall be installed and operated in accordance with plans and specifications that have been approved as part of a permit issued by the State Health Officer.

12:010 Well Abandonment

Abandoned water wells and well holes shall be plugged in accordance with the *Louisiana Water Well Rules, Regulations, and Standards*.

12:011-1 Reservoir Sanitation

The State Health Officer may designate any water body, or a part of any water body, as a reservoir, where, in its use as a water source for public water supply, the control of other uses of the water body, or designated part of the water body, and its watershed, is necessary to protect public health.

12:011-2 No cesspool, privy or other place for the deposit or storage of human excrement shall be located within 50 feet of the high water mark of any reservoir, stream, brook, or other watercourse flowing into any reservoir, and no place of this character shall be located within 250 feet of the high water mark of any reservoir or watercourse as above mentioned, unless such receptacle is so constructed that no portion of the contents can escape or be washed into the reservoir or watercourse.

12:011-3 No stable, pigpen, chicken house or other structure where the excrement of animals or fowls is allowed to accumulate, shall be located within 50 feet of the high water mark of any reservoir or watercourse as above mentioned, and no structure of this character shall be located within 250 feet of the high water mark of such waters unless provision is made for preventing manure or other polluting materials from flowing or being washed into such waters.

12:011-4 Boating, fishing, water skiing and swimming on any reservoir or watercourse as above mentioned shall be prohibited, or otherwise restricted by the State Health Officer, when it has been determined that the public served by the public water supply using the reservoir as a water source is exposed to a health hazard, and that such prohibitions or restrictions are therefore necessary. In any case, the aforementioned activities shall be prohibited within 100 feet of the water intake point of the public water supply.

12:011-5 Industrial Wastes

No industrial waste which may cause objectionable changes in the quality of water used as a source of a public water supply shall be discharged into any lake, pond, reservoir, stream, underground water stratum, or into any place from which the waste may flow, or be carried into a source of public water supply. (Note: This was formerly numbered 12:024).

12:012-1 Distribution

All potable water distribution systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service.

12:012-2 All installations of, or repairs to, public water systems or residential and nonresidential plumbing facilities that provide drinking water and which are connected to a public water supply shall be made using lead-free piping, solder and flux. The only exception to this general requirement is that leaded joints necessary for the repair of cast iron pipes may be allowed. For these purposes, lead free, when used with respect to solder and flux, refers to solder and flux containing not more than 0.2 per cent lead.

Additionally, when used with respect to pipes and fittings, lead free refers to pipes and fittings containing not more than 8 percent lead.

12:012-3 Where pumps are used to draw water from a water supply distribution system or are placed in a system to increase the line pressure, provision must be made to limit the pressure on the suction side of the pump to not less than 15 pounds per square inch gauge. Where the use of automatic pressure cut-offs is not possible, such pumps must draw water from a tank, supplied with water from a water distribution system through an air gap as per Chapter XIV of this Code.

12:012-4 All public water supplies shall be operated and maintained to provide a minimum positive pressure of 15 pounds per square inch gauge at all service connections at all times.

12:013-1 Storage

All cisterns and storage tanks shall be of watertight construction and made of concrete, steel or other materials approved for this purpose by the State Health Officer. When located wholly or partly below ground, such storage basins shall be of corrosion resistant materials.

12:013-2 Cisterns used for potable water shall be provided with a rain water cut-off, suitable to deflect the first washings of the roof and prevent contamination of the water. Cisterns shall be tightly covered, and screened with 18-mesh wire screen.

12:013-3 Vent Openings

Any vent, overflow, or water level control gauge provided on tanks or other structures containing water for any potable water supply shall be constructed so as to prevent the entrance of birds, insects, dust or other contaminating material. Openings or vents shall face downward and shall be not less than two feet above the floor of a pump room, the roof or cover of a tank, the ground surface or the surface of other water supply structures.

12:013-4 Coatings

Paints or other materials used in the coating of the interior of cisterns, tanks or other containers in which potable water is processed or stored shall be nontoxic to humans and shall be of such composition that the palatability of the water stored or processed shall not be adversely affected. The "Standard for Painting Steel Water Storage Tanks" (AWWA D102-78) published by the American Water Works Association shall be complied with. Determination of acceptability of coatings for potable water applications by the U.S. Environmental Protection Agency may be considered evidence of compliance with this Section. (The AWWA Standard can be obtained from the American Water Works Association, 6666 W. Quincy Ave., Denver, Colo. 80235.)

12:014-1 Protection of Suction Pipes

All subsurface suction piping, such as that leading from detached wells or reservoirs, shall be protected against the entrance of contamination.

12:014-2 Valve boxes shall be provided for valves on buried suction lines. Every such valve box shall project at least six inches above the floor if in a room or building, and at least twelve inches above the ground if not enclosed in a building. The top of the box shall be provided with a cover with overlapping edges.

12:015 Separation of Water Mains and Sewer Mains

Sewer and water mains shall be laid in separate trenches not less than 6 feet apart horizontally, when installed in parallel. Crossing water and sewer mains shall have a minimum vertical separation of 18 inches. In cases where it is not possible to maintain a 6 foot horizontal separation, the State Health Officer may allow a waiver of this requirement on a case by case basis if supported by data from the design engineer.

12:016-1 Cross Connections

There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water may enter a public water supply system.

12:016-2 Water from any potable water supply complying with these requirements may be supplied to any other system containing water of questionable quality only by means of an independent line discharging not less than a distance equal to two times the pipe diameter or two inches, whichever is greater, above the overflow level of storage units open to atmospheric pressure or by other methods approved by the State Health Officer.

12:017 Connection With Unsafe Water Sources Forbidden

There shall be no cross-connection, auxiliary intake, bypass, inter-connection or other arrangement, including overhead leakage, whereby water from a source that does not comply with these regulations may be discharged or drawn into any potable water supply which does comply with these requirements. The use of valves, including check or back pressure valves, is not considered protection against return flow, or back-siphonage, or for the prevention of flow of water from an unapproved source into an approved system.

12:018 Connections to Public Water Supply

All inhabited premises and buildings located within 300 feet of an approved public water supply shall be connected with such supply, provided that the property owner is legally entitled to make such a connection. The State Health Officer may grant permission to use water from some other source.

12:019 Protection During Construction

All potable water supplies which are hereafter constructed, reconstructed, or extensively altered shall be protected to prevent contamination of the source during construction.

12:020-1 Disinfection of Potable Water Supply Systems

Pipes, pumps, and other parts of water supply systems shall be disinfected when deemed necessary by the State Health Officer.

12:020-2 Disinfection of New Water Supplies

Pumps, pipes, wells, tanks and other parts of new systems shall be thoroughly disinfected by the use of chlorine or chlorine compounds before being placed in use. The rate of application of chlorine shall be in such proportion to the rate of water entering the pipe or other appurtenances that the chlorine dose applied to the water shall be at least 50 mg/l. Chlorinated water shall be retained long enough to destroy non-spore-forming bacteria. The period shall be at least three hours and preferably longer, as may be directed. After the chlorine treated water has been retained for the required

time, the chlorine residual at pipe extremities and at other representative points shall be at least 5 mg/l. If the residual is less than 5 mg/l, the disinfection procedure shall be repeated until a 5 mg/l residual is obtained, as required above.

12:020-3 Large storage tanks may be disinfected by washing down the interior of the tank with a chlorine solution having at least 200 mg/l available chlorine and then washing the interior of the tank with potable water and wasting the wash water.

12:020-4 Water from new systems, or from new parts of existing systems, shall not be furnished for consumer's use until tests performed by a laboratory which is certified by the State Health Officer have shown the new system or new part of the system to be free from contamination by coliform bacteria (following EPA approved procedures prescribed in Standard Methods for the Examination of Water and Wastewater, 19th Edition). Samples shall not be collected from the new facilities until such new facilities have been disinfected as prescribed in Section 12:020-2 above, and the chlorinated water thoroughly flushed from the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), LR 26:1281 (June 2000).

12:021-1 Mandatory Disinfection

Routine, continuous disinfection is required of all public water systems other than those under Section 12:021-4 of these regulations. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

pH Value	Free Chlorine Residual
up to 7.0	0.4 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

THIS TABLE DOES NOT APPLY TO SYSTEMS USING CHLORAMINES.

All new groundwater systems installed after the effective date of these regulations shall provide at least 30 minutes contact time prior to the first customer. It is recommended that all existing systems provide the 30 minutes contact time prior to the first customer. Additions to or extensions of existing systems are exempt from the 30 minutes contact time.

Systems which use surface water or ground water which is under the influence of surface water shall meet the requirements of applicable sections of the Louisiana Surface Water Treatment Rule as it pertains to CT and *Giardia* and virus requirements for disinfection.

The effective date for all public water supplies serving a population of greater than 500 shall be July 1, 1995.

The effective date of mandatory disinfection for all public water supplies serving a population of 500 or less shall be July 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), repromulgated LR 26:12821 (June 2000).

12:021-2 Minimum Disinfection Residuals

A minimum disinfectant residual of detectable amount of total chlorine shall be maintained at all points throughout the distribution system at all times for chlorination methods other than chloramines. For very small water systems a residual of 0.2 mg/l free chlorine is generally required to maintain said systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), repromulgated LR 26:1282 (June 2000).

12:021-3 Other Methods of Disinfection

Where chlorination is not used as the primary disinfectant, chlorine or chloramines shall be used as the secondary disinfectant to provide the residuals required in 12:021-2. Other methods shall be evaluated on a case-by-case basis by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), repromulgated LR 26:1282 (June 2000).

12:021-4 Variances to Mandatory Disinfection

A variance may be granted by the state health officer to a public water system, provided the system meets one of the following criteria:

(a) If the public water system has not had a bacteriological maximum contaminant level (MCL) violation for the past three years;

(b) If the public water system, both existing and future installations, can prove that disinfection would create trihalomethane (THM) levels of 0.10 milligrams per liter or greater. The public water supply should explore alternate means of disinfection prior to requesting a variance. A variance can be granted for such systems, provided the system has the required equipment to verify that a detectable amount of chlorine residual is maintained at all times. For systems under 10,000 population served, said systems shall have 90 days after a TTHM (Total Trihalomethane) exceedance of 0.100 milligrams per liter is determined to request said variance;

(c) A variance shall be granted to a public water supply owned by and/or operated by, and/or created as a political subdivision in accordance with Article 6 Section 14 of the Constitution of the State of Louisiana;

(d) In reference to (a), (b), and (c) above, on a case-by-case basis, when a bacteriological MCL occurs and an administrative order shall be or has been issued to that particular water system, the said water system shall be subject to the orders of the state health officer to take whatever remedial actions that are deemed necessary to comply with all applicable rules, regulations, standards, and

the Louisiana Sanitary Code, including, but not limited to, the Louisiana Total Coliform Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), repromulgated LR 26:1282 (June 2000).

12:021-4.1 Variances must be requested in writing and must be approved prior to the effective date of the mandatory disinfection requirement as prescribed in Section 12:021-1 except the new conditions that arise in 12:021-4(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), repromulgated LR 26:1282 (June 2000).

12:021-5 Revocation of Variance

A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system must install mandatory continuous disinfection as stated in Section 12:021-2 within the times specified in a compliance schedule submitted to and approved by state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation. For systems affected under 12:021-4(b), revocations because of a bacteriological MCL shall be evaluated on a case-by-case basis by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), repealed by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), re-promulgated LR 20:1008 (September 1994), repromulgated LR 26:1282 (June 2000).

12:021-6 Batch Disinfection

State health officer may allow batch disinfection for emergency purposes. Batch disinfection shall not be considered a method of continuous disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), repromulgated LR 26:1282 (June 2000).

12:021-7 Records

Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), repromulgated LR 26:1282 (June 2000).

12:022-1 Water Shall Be Provided

It shall be the duty of the owner or manager of any premises occupied as a residence, hotel, lodging house, tenement house, office building, shop, factory, or waiting room or depot of a railroad or other common carrier to provide a safe supply of potable water for human consumption and for sanitary purposes.

12:022-2 In all cases where the owner or owners of the property or premises referred to in this Code shall not reside in the place where the property is situated, or when such property shall belong to an estate, succession or corporation, it shall be the duty of the agent, or representative of the owners thereof, or the persons who shall have charge of said property for the owners thereof, or who shall collect the rent of such premises, if the same is rented, to provide and furnish such premises with a safe and adequate potable water supply. In case such person shall fail or neglect to supply the same to such premises, within 15 days after due notice, he shall be in violation of the provisions of this Chapter.

12:022-3 Each public, parochial and private school shall be provided with a potable water supply which is approved as to source, location, and distribution by the State Health Officer.

12:022-4 It shall be the duty of all employers to supply an adequate, safe, potable water supply for all employees.

12:022-5 Wherever a public water supply is available, no other supply shall be furnished for potable purposes to employees in any factory or industrial plant, or other place of business, unless such other supply is approved by the State Health Officer. If no public water supply is available, the water for potable purposes shall be of safe, sanitary quality approved by the State Health Officer. If the water supply for industrial or fire protection purposes is obtained entirely or in part from a source not approved for potable purposes, this supply shall be distributed through an independent piping system having no connection with the system carrying potable water. All faucets or other outlets furnishing water which is not safe for potable purposes shall be conspicuously so marked.

12:023-1 Public Drinking Fountains

All public drinking fountains shall be designed and constructed in accordance with the provisions of Chapter XIV of this Code. Drinking fountains and coolers shall be constructed of lead free materials as specified in section 12:012-2.

12:023-2 Water fountains and coolers shall be so constructed that the ice or other refrigerant used for cooling cannot come in contact with the water.

12:023-3 Where water coolers or supply tanks used for drinking water are not directly connected to the source of supply, arrangements for filling the containers shall be such as to prevent contamination of the water.

12:023-4 The use of a common drinking cup is prohibited.

12:024 Potable Water Loading Stations

Portable hoses used for filling water containers shall be provided with a metal disk at the nozzle to prevent contact of nozzle with ground or floors. When not in use, the portable hoses shall be protected from dirt and contamination by storage in a tightly enclosed cabinet and shall have a cap to cover the nozzle.

12:025 Issuance Of Emergency Boil Notices

An Emergency Boil Notice, when it is deemed necessary to protect public health, shall be authorized only by the State Health Officer. Once implemented, said notice may be rescinded or cancelled only by the State Health Officer.

12:026 Adoption By Reference

The National Primary Drinking Water Regulations, as defined in Section 12:001, are hereby incorporated by reference into this Chapter of the Sanitary Code and shall

have the same force and effect of state law as any other section of this Chapter just as if they had been fully published herein. Every public water system shall comply with the National Primary Drinking Water Regulations as defined herein. When the National Primary Drinking Water Regulations as defined herein and the state's own rules and/or regulations applicable to public water systems conflict, the state's own rules and/or regulations shall govern [e.g., the Louisiana Total Coliform Rule (Appendix C) provisions shall govern when any of the federal Total Coliform Rule provisions are found to conflict].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:1283 (June 2000).

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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), repromulgated LR 26:1283 (June 2000).

Appendix A
Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 This rule is intended to be a mechanism to secure rapid and full compliance with the requirements of the State Sanitary Code and other applicable laws and regulations relative to public water systems providing safe drinking water. It is not intended as a revenue gathering mechanism, and the Safe Drinking Water Program is not dependent upon any level of penalty revenue to balance its budget. It is based on the principle of reasonable enforcement guidelines to be vigorously implemented. As defined by R.S. 40:5.9, penalties may be assessed only on the basis of non-compliance with corrective orders, rather than on the basis of the mere existence of a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1285 (June 2000).

II. General Provisions

2.1 Nothing herein shall be construed to prohibit the state health officer from modifying the contents of an administrative order if changes are warranted to ensure compliance with applicable laws and regulations or to allow for the practical ability to comply with the items so ordered. It is incumbent upon the person to whom the administrative order was issued to submit a written request for order modifications when, for instance, it is realized that compliance cannot be achieved within the time constraints specified in the order due to unforeseen problems or delays such as inclement weather conditions. Such requests shall be considered if the request is received by the state health officer not later than five days before the compliance deadline expires. In order to show proof and date of service, the person requesting any order modifications shall do so by at least one of the following methods:

A. Use of the United States Postal Service via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested.

B. Transmission by facsimile machine will also be accepted; however, the state health officer shall be deemed not to have officially received a facsimile transmission until such time as the requester has received a written acknowledgement, via facsimile or mail, of receipt from the Office of Public Health. Said acknowledgement of receipt shall state the date when the Office of Public Health actually received the transmission and this date, regardless the sender's transmission date, shall be used in the determination of whether or not the time limit stated above was met. It is the responsibility of the sender to ask the Office of Public Health for a written acknowledgement of receipt of any facsimile transmissions which may be sent to the state health officer.

C. Use of a private shipping service, such as United Parcel Service, Federal Express, etc. when such a service can provide a written receipt to the sender stating the date of delivery to the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1285 (June 2000).

2.2 Additionally, nothing herein shall be construed to mandate that the state health officer is required to assess penalties in the event of noncompliance with a provision of an administrative compliance order issued pursuant to LSA - R.S. 40:5.9; however, this rule is intended to delineate the procedure for calculating the monetary amount of the civil penalty assessment after the state health officer has decided to assess and impose penalties for noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1285 (June 2000).

2.3 When reference is made to a public water system herein, such reference is limited to an individual public water system uniquely identified by its own Public Water System Identification Number (PWS ID No.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1285 (June 2000).

III. Calculation of Daily Penalties

3.1 R.S. 40:5.9(A) authorizes the state health officer to assess a civil penalty up to \$3,000 a day for each day of violation and for each act of violation of a provision of an administrative compliance order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:000 (June 2000).

3.2 For purposes of implementation of R.S. 40:5.9, violation of one or more provisions of an administrative compliance order shall be handled as follows:

A. All violations for a given public water system shall be handled as a package (i.e., the statutory maximum daily penalty of \$3000 per day per violation will be handled as a maximum daily penalty of \$3000 per day per public water system regardless of the number of individual violations). The daily penalty assessment amount shall be based upon the most serious uncorrected violation. As the level of seriousness classification or the level of culpability associated with the most serious uncorrected violation in the package changes, the daily penalty assessment amount will be recalculated accordingly from that time forward and added to any previously calculated assessment amounts.

B. In lieu of the requirements of Section 3.2(A) above, the state health officer, at his sole discretion, is authorized to impose a penalty of no less than \$1000 per day per violation for those public water systems serving more than 10,000 individuals [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:1285 (June 2000).

3.3 The maximum daily penalty applicable to a particular public water system in violation of one or more of the provisions of an administrative compliance order shall be determined as follows:

A. When a penalty is calculated pursuant to Section 3.2(A) above, the maximum daily penalty shall be set at \$1

dollar per service connection per day based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be \$3,000 per day.

2. The maximum daily penalty for public water systems having less than 30 service connections shall be \$30 per day.

B. When a penalty is calculated pursuant to Section 3.2(B) above, the maximum daily penalty shall be set at \$1 dollar per service connection per day per violation based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be \$3,000 per day per violation.

2. The maximum daily penalty for public water systems having 2500 service connections (i.e., equivalent to 10,000 individuals served) shall be \$2500 per day per violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:1285 (June 2000).

3.4 Pursuant to Sections 3.2 and 3.3 above, the exact level of the daily penalty shall be based on the seriousness of the violation and culpability of the owner and/or operator as follows:

A. Using the maximum daily penalty specified in Section 3.3 above as the basis for calculation, 50 percent of the maximum daily penalty amount shall be judged on the seriousness of the violation and the other 50 percent shall be judged on the culpability of the owner and/or operator.

B. The decision regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the accompanying culpability of the owner and/or operator shall be made by the state health officer after considering a staff recommendation based upon the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B).

C. When the state health officer utilizes Section 3.2(B) as the basis for penalty calculation, the minimum daily penalty assessment amount shall in no case be less than \$1000 per day per violation after the provisions of Sections 3.4(A) and 3.4(B) are applied [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:1285 (June 2000).

3.5 The duration of non-compliance with a provision of the administrative compliance order shall be determined as follows:

A. Once an administrative order has become final and not subject to further administrative review, the state health officer shall direct staff to conduct an initial investigation for the purpose of determining compliance/non-compliance with the provision(s) of the administrative order. The initial

investigation shall be conducted within five working days after the time limit granted for compliance within the administrative order ends. If upon agency investigation it is found that non-compliance still exists, staff will immediately provide a copy of the investigatory report to the person on-site in responsible charge of the public water system which will serve to notify the person to whom the administrative order was issued that the agency has determined that non-compliance still exists and that daily penalty assessments shall begin to accrue immediately from this date forward until such time as the agency has been notified by the public water system that compliance has been achieved. If a representative of the public water system is not present or reasonably available at the time of the agency's investigation, staff shall, on the same day as the investigation, attempt to contact via telephone or facsimile machine the person to whom the administrative order was issued or such other responsible person in the employ of the public water system in order to provide speedy notification of results which are deemed by agency staff to cause the continuance of daily penalty assessments. In the latter case involving only verbal or electronic communication, agency staff shall, as soon as possible thereafter, transmit a copy of the investigatory report to the person to whom the administrative order was issued by one of the methods of mailing stated in Section 2.1(A) above.

B. After the agency has conducted the initial investigation, determined that non-compliance with a provision of the administrative order still exists, and has provided a copy of the investigatory report as stated in Section 3.5(A) above, it then becomes incumbent upon the person to whom the administrative order was issued to notify the agency when compliance has been achieved. In order to show proof and date of service, such notice advising the agency of compliance shall be transmitted to the agency in the same manner as described in Section 2.1(A), (B), or (C) above. Until such time as the agency has been properly notified of correction, the agency will consider the duration to begin on the date of the initial investigation and will presume that such violation is continuing on a daily basis until such time as the agency has received notification of correction. Once the agency is notified of correction, agency staff shall conduct a follow-up investigation in order to confirm compliance. Such follow-up investigation shall be conducted within 10 working days of agency receipt of the public water system's notice of compliance. If upon agency's follow-up investigation it is found that non-compliance still exists, staff will so advise the public water system in the same manner as done for initial investigations with the exception that the public water system will be advised that previously running daily penalty assessments have and will continue to accrue pending yet additional notification of compliance by the public water system to the agency. When the results of the follow-up investigation confirm that compliance has in fact been achieved, then the date that the agency received notification of compliance from the public water system for the particular provision of the administrative order in question shall be considered the last day of non-compliance for purposes of calculating the duration for non-compliance with this particular provision.

C. The steps described in Section 3.5(A) or (B) above may continue for an indefinite period of time but shall end

once compliance has been confirmed by agency staff unless such violation is found to reoccur while the administrative order is still in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1286 (June 2000).

IV. Payment of Penalty/Ability to Request Mitigation of Penalty and/or Adjudicatory Hearing

4.1 At the discretion of the state health officer, notice(s) imposing penalty assessments may be issued from time to time subsequent to either initial non-compliance with any provision of the administrative compliance order or subsequent to any continuance or reoccurrence of non-compliance while the administrative compliance order remains effective. Notices of imposition of penalties shall be served by one of the forms of service described in Section 2.1(A) above or hand-delivered. Within the notice imposing the penalty assessment, the state health officer will inform the owner and/or operator of the public water system of the ability to apply for mitigation of the penalties imposed and for the opportunity for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment. Penalties shall not be imposed upon any person without notice and opportunity for hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1287 (June 2000).

4.2 Once a penalty assessment is imposed, it shall become due and payable 35 days after receipt of notice imposing the penalty unless a written application for mitigation or a written request for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment is received by the state health officer within 20 days after said notice is served. In order to show proof and date of service, the person applying for mitigation or an adjudicatory hearing shall transmit the written application for mitigation or written request for hearing to the agency in the same manner as described in Section 2.1(A), (B), or (C) above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1287 (June 2000).

4.3 Upon receipt of a written application for mitigation of such penalty, the state health officer may mitigate the penalty, i.e., upon proof that all of the stipulations in the administrative order have now been complied with or upon agreement to and compliance with a Stipulation and Agreed Order setting out the conditions which will mitigate the penalty. The accompanying guidelines referenced in section 3.4(B) above shall also contain guidance for the state health officer when considering the amount of mitigation of the imposed penalty. When the amount of the penalty imposed is from \$1,000 up to \$5,000, the state health officer shall not mitigate the penalty below \$500. When the amount of the penalty imposed is less than \$1000, the state health officer shall not mitigate the penalty below one-half of the imposed penalty amount. The penalty shall become due and payable

35 days after mailing of notice setting forth the final disposition of the application for mitigation, unless

(i) an application for an adjudicatory hearing to contest the disposition is received within 20 days after the date of mailing the disposition notice, or

(ii) the state health officer specifies a different payment schedule within the disposition notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1287 (June 2000).

4.4 Upon the timely receipt of a written application requesting an adjudicatory hearing, a hearing on the record relative to contesting the imposition of the penalty assessment may be scheduled by the agency. If after consideration of the record it is found that the issuance of the notice imposing the penalty assessment was not proper as supported by and in accordance with the evidence, the administrative law judge shall have the authority to recommend adjustment of the penalty to comply with any items found to be in error or, if justified, withdrawal of the entire penalty. The penalty shall become due and payable 35 days after mailing of notice of the final decision by the agency, unless the final decision by the agency specifies a different payment schedule within the final decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1287 (June 2000).

4.5 When a Stipulation and Agreed Order has been proposed by the agency or the administrative law judge, a fixed number of days will be given for response. If the Stipulation and Agreed Order is not signed and returned by the date fixed or if no response is received by the date fixed, this shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated. Alternatively, failure of a public water system to comply with the conditions of a Stipulation and Agreed Order shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1287 (June 2000).

V. Court Appeals

5.1 A person who is aggrieved by a final decision of the agency relative to penalty imposition may petition for judicial review according to the provisions of R.S. 49:964 of the Administrative Procedure Act. Proceedings for review may be instituted by filing a petition in the Nineteenth Judicial District Court, Parish of East Baton Rouge, within 30 days after mailing of notice of the final decision by the agency. Copies of the petition shall be served upon the agency and all parties of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1287 (June 2000).

Appendix B

Accompanying Guidelines to the Civil Penalty

Assessment Rule

I. Statement of Purpose

1.1 The purpose of these "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B) are as follows:

A. This rule is intended to provide guidance for Safe Drinking Water Program staff in making recommendations to the state health officer regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the culpability of the owner and/or operator when it has been determined that a public water system has failed to comply with the directives of an administrative order.

B. Additionally, guidance relative to determining mitigated penalty amounts are also contained herein. Such mitigation guidance is applicable irrespective of the method used in the calculation of penalties, *i.e.*, irrespective of whether 3.2 (A) or 3.2 (B) of the "Civil Penalty Assessment Rule" (Appendix A) was used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:1288 (June 2000).

II. Seriousness of Violation

2.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule" (Appendix A), the following penalty assessment levels shall apply towards the seriousness of the violation (public health risk) for the various classifications of violations described in Subpart 4 of the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B):

A. Imminent threat (high risk) type violations shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Priority threat (moderate risk) type violations shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Non-imminent threat (low risk) type violations shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:1288 (June 2000).

III. Culpability of the Owner and/or Operator

3.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule" (Appendix A), the following penalty assessment levels shall apply towards the culpability (the level of blame for the occurrence and/or continuance of a violation including factors such as attitude as well as the nature and extent of the efforts to comply) of the owner and/or operator for the particular violation for which a seriousness penalty is assessed:

A. Culpability determined to be deliberate or intentional (a willful action or lack of action) shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Culpability determined to be recklessness (wanton disregard of the consequences but proceeded with risk in mind) shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Culpability determined to be negligence (failure to prevent the violation due to indifference, lack of reasonable care, lack of diligence, etc.) shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

D. Culpability determined to be non-existent (those cases where the operator and/or owner has acted reasonably, but the violation occurred anyway) shall be assessed at zero percent of one-half of the maximum daily penalty amount, *i.e.*, \$0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:1288 (June 2000).

IV. Classification of Violations

4.1 The various types of violations which can occur are classified into three levels of seriousness based upon their public health risk. The three levels of seriousness are defined as follows:

A. *Imminent threat* type violations are defined as those violations considered to be of an acute risk to public health requiring an immediate action or response by the owner and/or operator of a public water system. Imminent threat type violations include, but are not limited to, the following:

1. exceeding maximum contaminant levels for nitrate.
2. exceeding the maximum contaminant level for total coliform when fecal coliform or *E. coli* is present in the water distribution system.
3. occurrence of a water-borne disease outbreak in an unfiltered surface water system or an unfiltered ground water system which is under the direct influence of surface water.
4. any violation specified by the State Health Officer as posing an acute risk to human health.

5. failure to comply with any remedial action(s) ordered in the context of an emergency order issued by the state health officer, such as but not limited to *Boil Notices*.

6. failure to give public notification of an acute violation (Tier 1 - Acute) within the time frames allowed by law or duly adopted rule.

B. *Priority threat* type violations are defined as those violations considered to be of a moderate risk to public health but which could result in an acute risk and therefore require an immediate action or response by the owner and/or operator. Priority threat violations include, but are not limited to, the following:

1. exceeding the maximum contaminant level for total coliform.
2. failure to comply with a treatment technique requirement.
3. failure to comply with a variance or exemption schedule.
4. exceeding the maximum contaminant level for a physical, radiological, or chemical (other than nitrate) contaminant. For the purpose of clarification, a physical contaminant is defined as turbidity, temperature, conductivity, color, taste, or odor.

5. failure to perform compliance monitoring as required for any bacteriological, physical, radiological, or chemical contaminant.

6. failure to utilize either a laboratory certified by the Office of Public Health or an Office of Public Health laboratory which has been certified by EPA for compliance monitoring determination of any bacteriological, physical, radiological, or chemical contaminant in drinking water when such contaminant determination is required by law or duly adopted rule to be analyzed by an EPA or state-certified laboratory.

7. failure to perform proper testing procedures for turbidity, disinfectant residual, temperature, pH, conductivity, alkalinity, calcium, silica, orthophosphate, or any other parameter which is not required to be analyzed in an EPA or state-certified laboratory but the results of which are required to be reported to the state for compliance monitoring determinations.

8. failure to report the results of any test measurement or analysis to the state within the time frame allowed by law or duly adopted rule.

9. failure to comply with any remedial action(s) ordered in the context of a non-emergency order issued by the state health officer.

10. failure to give public notification of a non-acute (Tier 1 - Non-Acute) violation within the time frames allowed by law or duly adopted rule.

C. *Non-imminent* threat violations are defined as those violations considered to be of a low risk to public health which do not require an immediate response by the owner and/or operator. These include operational deficiencies, facility deficiencies, and administrative deficiencies. Non-imminent threat type violations include, but are not limited to, the following:

1. failure to give public notification of a monitoring violation, testing procedure violation, variance grant or existence, or exemption grant or existence (Tier 2) within the time frames allowed by law or duly adopted rule.

2. failure to comply with an operational or maintenance requirement.

3. failure to comply with design and construction standards as required by law or duly adopted rule.

4. failure to submit plans and specifications as required by law or duly adopted rule.

5. failure to comply with an operator certification requirement.

6. failure to submit to the state, within the time frames allowed by law or duly adopted rule, a representative copy of each type of public notice distributed, published, posted, and/or made available to the persons served by the system and/or to the news media.

7. failure to maintain records as prescribed by law or duly adopted rule, such as but not limited to, bacteriological and chemical analyses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), repromulgated LR 26:1288 (June 2000).

V. Mitigation Guidance

5.1 Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A) allows the state health officer to mitigate penalties that have been imposed generally either upon proof that all of the provisions in the administrative compliance order have now been complied with or upon compliance with terms of a Stipulation and Agreed Order. The following guidance will be used by the state health officer upon such mitigation proceedings:

A. When considering mitigation of the imposed penalty upon receipt of written application requesting such mitigation, the state health officer shall have the discretion to reduce the imposed penalty beginning at a reduction rate of zero percent up to no more than 90 percent. The ordinarily expected mitigation reduction rate shall be 50 percent of the assessed penalty for the first 60 days of assessed penalty and an 80 percent reduction rate for penalties assessed beyond day 60. Using this procedure, if the end result of the calculated mitigated penalty amount is less than the minimum mitigation limits specified in Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A), the minimum mitigation limits specified therein shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:1289 (June 2000).

Appendix C

Louisiana Total Coliform Rule

The State of Louisiana Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts the United States Environmental Protection Agency (EPA) Federal Total Coliform Regulations as published in the Federal Register, Volume 54, Number 124 Thursday, June 29, 1989. The Louisiana Total Coliform Rule is to be published as an addendum to Chapter XII of the State Sanitary Code. In order to clarify the State's discretionary decisions allowed by the Federal requirements, the following is offered.

Coliform Routine Compliance Monitoring

Each public water supply must be monitored in accordance with a written sampling plan prepared by the public water supply (PWS) personnel in conjunction with the parish sanitarian. The sampling plan must be reviewed and approved by OPH District/Regional engineering staff. The sampling plan should include a map or sketch of the system with the points of collection (POC) identified along with the street address and/or sufficient information for an unfamiliar person to find the sampling site. The water supply must provide suitable taps which draw water directly from the mains or the service lines. Such taps provide for samples which are most representative of the quality of water provided without "interference" which may be caused by plumbing problems within residences or other structures. Use of such taps decreases the chance of "bad samples" resulting in a coliform maximum contaminant level (MCL) violation which requires public notification by the public water supply and an administrative enforcement action by

the EPA/DHH against the public water supply. Community systems must be routinely monitored in accordance with Table 1.

3/month	3	5/month
4/month	3	5/month
5/month or greater	3	Table 1

Table 1			
Total Coliform Sampling Requirements According to Population Served			
Population served	Minimum number of routine samples per month	Population served	Minimum number of routine samples per month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420
41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

Non-Community systems using ground water must routinely monitor once in each calendar quarter during which the system provides water to 1000 or less persons. A non-community system using ground water and serving more than 1000 persons must monitor monthly in accordance with Table 1. Any non-community using any surface water, or using ground water under the direct influence of surface water must monitor in accordance with Table 1.

The public water supply must collect samples at regular time intervals throughout the month unless the state staff specifies otherwise or state staff collect the samples.

Special purpose samples (investigative samples) shall not be used to determine compliance with the total coliform MCL.

Coliform Repeat Monitoring

If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples must be collected by the public water supply within 24 hours of being notified of the positive result. If the state collects and analyzes the samples, repeat samples will be collected by parish health unit staff within 24 hours of official notification. The number of repeat samples collected shall be in accordance with Table 2.

Table 2		
Monitoring and Repeat Sample Frequency After a Total Coliform Positive Routine Sample		
No. routine samples/month	No. repeat samples/positive	No. routine samples next month
1/month or fewer	4	5/month
2/month	3	5/month

At least one repeat sample must be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. The fourth sample must come from a tap within five service connections upstream or within five service connections downstream. The fourth sample may not come from the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one away from the end of the distribution system the requirement to collect at least one repeat sample upstream or downstream of the original sampling site is waived.

The repeat samples must be collected on the same day. In a system with a single service connection, four 100ml repeat samples must be collected. Three 100ml samples must be collected in a system if more than one routine sample per month is collected.

If coliforms are detected in any repeat sample, the system must collect another set of repeat samples from the same location unless the MCL has already been violated and the State is aware of violation. If short term corrective actions are not successful, the public water supply must install continuous disinfection and implement a routine flushing program as directed by OPH.

Whenever a system that normally collects less than 5 routine distribution system samples each month receives a positive coliform analysis, it must collect at least 5 routine distribution system samples the next month regardless of the results of repeat sampling.

If a routine or repeat sample result is positive for total coliform, the sample must also be analyzed for fecal coliform or *E. coli* immediately.

Invalidation of Total Coliform Results

Analysis results may be invalidated under specified conditions, including:

1. The OPH acknowledges improper analysis occurred or background bacteriological interference was present.
2. The OPH determines the contamination is from an internal plumbing problem, not the distribution system.
3. The OPH concludes, and states in writing, that the result is due to some condition not related to water quality. This written conclusion must be signed by an OPH representative and made available to the public and EPA.

Total Coliform MCL

1. The maximum contaminant level (MCL) is based on the presence or absence of total coliform rather than on coliform density.

2. If 40 or more distribution system samples are collected per month, no more than 5 percent of the monthly samples may be total coliform positive.

3. If less than 40 distribution system samples are collected per month, no more than one sample per month may be total coliform positive.

NOTE: If collecting less than 40 samples per month, the second positive coliform analysis in any month will result in an MCL violation. If collecting more than 40 samples per month, occasional positives may be tolerated, as long as the

number each month does not exceed 5 percent of the total samples.

4. A violation is considered acute and is subject to more stringent public notification requirements when:

a. A coliform-positive original sample that is also positive for fecal coliform (or *E. coli*) is followed by a positive coliform repeat sample, or

b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for fecal coliform (or *E. coli*).

Public Notification

Public notification requirements remain unchanged from the 1989 revisions as specified.

If the MCL is exceeded, the supplier of water is required to provide public notice in a daily or weekly newspaper within 14 days. Where newspaper notice is not feasible for a non-community public water supply, continuous posting may be substituted. In addition to newspaper notice, a notice must also be provided to the consumers by direct mail or hand delivery within 45 days. For an acute MCL violation, a notice shall also be furnished by community systems only to radio and television stations serving the area within 72 hours.

In larger systems, an MCL violation and public notice may be confined to a portion of the distribution system.

In addition, public notification is required within 3 months if a supplier of water fails to comply with a monitoring and/or reporting requirement.

If a replacement sample can not be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:670 (July 1991), repromulgated LR 26:1289 (June 2000).

Appendix D

Surface Water Treatment Rule

Section 1: General Requirements and Definitions

1.01. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water, this chapter establishes treatment techniques in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, and turbidity.

B. Each supplier using an approved surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this chapter.

C. Within 90 days from the date of notification by the Department of Health and Hospitals, hereinafter referred to as DHH, that the supplier has a treatment plant and/or a surface water supply that does not meet the requirements of this chapter, the supplier shall submit for DHH approval a plan and schedule to bring its system into compliance as soon as feasible.

D. If the supplier disagrees with the DHH's notification, then the supplier shall submit reasons and evidence for its disagreement within 30 days from the receipt of the

notification unless an extension of time to meet this requirement is requested and granted by the DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1291 (June 2000).

1.02. Definitions

A. Approved Surface Water. "Approved surface water" means a surface water or groundwater under the direct influence of surface water that has received permit approval from the DHH.

B. Best Available Technology. "Best available technology" for filtration of surface water means conventional treatment which conforms with all of the requirements of this chapter.

C. Certified Operator. "Certified operator" is defined as the individual, as examined by the Committee of Certification as approved by the State Health Officer, meeting all requirements of State Law and regulation and found competent to operate a water supply or sewerage system.

D. Coagulation. "Coagulation" means a process using coagulant chemicals and rapid mixing by which colloidal and suspended material are destabilized and agglomerated into settleable and/or filterable flocs.

E. Conventional Filtration Treatment. "Conventional filtration treatment" means a series of treatment processes which includes coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

F. Diatomaceous Earth Filtration. "Diatomaceous Earth Filtration" means a process resulting in particulate removal in which a precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is being filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

G. Deep Bed Filtration. "Deep Bed Filtration" means a process for removing particulate matter from water by passage through porous media exceeding 42 inches in total depth. Underdrain gravels are not to be included.

H. Direct Filtration Treatment. "Direct filtration treatment" means a series of processes including coagulation, flocculation, and filtration but excluding sedimentation.

I. Disinfectant Contact Time. "Disinfectant contact time" means the time in minutes that it takes for water to move from the point of disinfectant application or a previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration is measured. The point of measurement must be before the first customer. Disinfectant contact time in pipelines is calculated by dividing the internal volume of the pipe by the flow rate through the pipe. Disinfectant contact time with mixing basins and storage reservoirs is determined by tracer studies or an equivalent demonstration to the DHH.

J. Disinfection. "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

K. Engineering Report. "Engineering report" means a water treatment technical report prepared by a qualified engineer.

L. Filtration. "Filtration" means a process for removing particulate matter from water by passage through porous media.

M. Flocculation. "Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable or filterable particles through gentle stirring by hydraulic or mechanical means.

N. Groundwater Under the Direct Influence of Surface Water. "Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae or large diameter pathogens such as *Giardia lamblia*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

O. Heterotrophic Plate Count. "HPC" means heterotrophic plate count analysis (#907) using instrumentation and methods as described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

P. Legionella. "*Legionella*" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires disease.

Q. Multibarrier Treatment. "Multibarrier Treatment" means a series of water treatment processes that provide for both removal and inactivation of waterborne pathogens.

R. NTU (Nephelometric Turbidity Unit). "Nephelometric Turbidity Unit (NTU)" means a measurement of the turbidity of water as determined by the ratio of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and methods described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

S. Operator. "Operator" is defined as the individual, as determined by the Committee of Certification, in attendance on site of a water supply or sewerage system and whose performance, judgement and direction affects either safety, sanitary quality, or quantity of water distributed or treated, or sewage collected or treated.

T. Pressure Filter. "Pressure filter" means a pressurized vessel containing properly sized and graded granular media.

U. Qualified Engineer. "Qualified engineer" shall mean any engineer who has been registered under the provisions of the State of Louisiana, Act 568 or 1980 and who holds a current certificate issued by the Louisiana State Board of Registration for Professional Engineers and Land Surveyors, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

V. Residual Disinfectant Concentration. "Residual disinfectant concentration" means the concentration of the disinfectant in milligrams per liter (mg/l) in a representative sample of water.

W. Sedimentation. "Sedimentation" means a process for removal of settleable solids before filtration by gravity or separation.

X. Slow Sand Filtration. "Slow sand filtration" means a process involving passage of raw water through a bed of

sand at low velocity (less than 0.10 gallons per minute per square foot) resulting in substantial particulate removal by physical and biological mechanisms.

Y. Supplier. "Supplier", for the purpose of this chapter, means the owner or operator of a water system for the provision to the public of piped water for human consumption, provided such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

Z. Surface Water. "Surface water" means all water open to the atmosphere and subject to surface runoff.

AA. Turbidity Level. "Turbidity level" means the value in NTU obtained by measuring the turbidity of a representative grab sample of water at a specified regular interval of time. If continuous turbidity monitoring is utilized, the turbidity level is the discrete turbidity value at any given time.

BB. Virus. "Virus" means a virus which is infectious to humans by waterborne transmissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1291 (June 2000).

Section 2. Treatment Requirements and Performance Standards

2.01. Treatment Requirements

A. Each supplier using surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment that meets the requirements of this chapter and reliably ensures at least:

1. A total of 99.9 percent (3 Log) reduction of *Giardia* cysts through filtration and disinfection.
2. A total of 99.99 percent (4 Log) reduction of viruses through filtration and disinfection.
3. The total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia* and viruses.

B. Suppliers meeting the requirements of Sections 2.02 and 2.04 shall be deemed to be in compliance with the minimum reduction requirements specified in Section 2.01(A).

C. Section 2.03 presents requirements for non-filtering systems. All suppliers which use surface water as a source must provide filtration. On a case by case basis, systems using groundwater under the direct influence of surface water may not be required to filter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1292 (June 2000).

2.02. Filtration

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be treated using one of the following filtration technologies unless an alternative process has been approved by the DHH.

1. Conventional filtration treatment
2. Direct filtration treatment
3. Slow sand filtration
4. Diatomaceous earth filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Section 4) and performance standards (Sections 2.02 and 2.04). Direct filtration treatment, and diatomaceous earth filtration and shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Section 4) and performance standard (Section 2.02 and 2.04). Slow sand filtration shall be deemed *Giardia* to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

Treatment Methods				
Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation	
	<i>Giardia</i>	Viruses	<i>Giardia</i>	Viruses
Conventional	2.5	2.0	0.5	2.0
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

Additional treatment removal credit for conventional or direct filtration may be allowed at state discretion to a maximum of 3 Log removal of *Giardia* cysts and 3 Log removal of viruses considering:

1. demonstration that the total treatment train achieves
 - a. at least 99 percent turbidity removal or filtered water turbidities are consistently less than 0.5 NTU; or
 - b. a 99.9 percent removal of particles in the size range of 5 to 15 µm;
2. HPC count in finished water is consistently less than 10/ml;
3. demonstration of removal/inactivation of *Giardia* and viruses;
4. process steps elevating process water above pH 9.0 (not necessarily finished water);
5. filter bed depth in excess of 48 inches;
6. Oxidant effect of chemicals feed for alternate purposes (i.e. taste and odor).

If DHH allows additional removal credit for the treatment process, minimum disinfection shall still not be less than reported in the above table. Expected minimum removal credits are listed in Table 1, Section 2.02 B with the corresponding remaining disinfection required.

C. Conventional Filtration or Direct Filtration, shall comply with following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be equal to or less than 0.5 NTU in 95 percent of the measurements taken each month.
2. For conventional treatment a higher filtered water turbidity, to a maximum of 1.0 NTU in 95 percent of the measurements taken each month, may be allowed at DHH discretion provided the system is achieving previously identified minimum removal and/or inactivation of *Giardia* cysts at the higher turbidity level.

Such a determination may be based upon an analysis of existing design and operating conditions and/or performance relative to certain water quality characteristics. The design and operating conditions to be reviewed include:

- a. the adequacy of treatment prior to filtration;
- b. the percent turbidity removal across the treatment train; and
- c. level of disinfection.

Water quality analysis which may also be used to evaluate the treatment effectiveness include particle size counting before and after the filter. Pilot plant challenge studies simulating full scale operation may also be used to demonstrate effective treatment. Depending on the source water quality and system size, DHH will determine the extent of the analysis and whether a pilot plant demonstration is needed. For this demonstration, systems are allowed to include disinfection in the determination of the overall performance by the system.

3. Filtered water turbidity may not exceed 5 NTU at any time.

D. Slow Sand Filtration shall comply with the following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be less than or equal to 1.0 NTU in 95 percent of the measurements taken each month. However, filtered water from the treatment plant may exceed 1.0 NTU, provided the filter effluent prior to disinfection does not exceed the maximum contaminant level for total coliforms.

2. The turbidity level of the filtered water does not exceed 5.0 NTU at any time.

E. Diatomaceous earth filtration shall comply with the following performance standards for each treatment plant:

1. The filtered water turbidity must be less than or equal to 1.0 NTU in 95 percent of the measurements each month.

2. The turbidity level of representative samples of filtered water must at not time exceed 5 NTU.

F. An alternative to the filtration technologies specified in Section 2.02(A) may be used provided the supplier demonstrates to the DHH that the alternative technology, 1) provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and 2) meets the turbidity performance standards established in Section 2.02(C). The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1293 (June 2000).

2.03. Non-Filtering Systems

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using groundwater under the direct influence of surface water. To be considered, non-filtering systems must conform to the criteria of this section. All suppliers using surface water must employ filtration.

B. Source Water Quality to Avoid Filtration

1. To avoid filtration, a system must demonstrate that either the fecal coliform concentration is less than 20/100 ml and/or the total coliform concentration is less than 100/100 ml in the water prior to the point of disinfectant application in 90 percent of the samples taken during the six previous months. Samples shall be taken prior to blending, if employed.

a. If both fecal and total coliform analysis is performed, only the fecal coliform limit must be met, under this condition, both fecal and total coliform results must be reported.

b. Sample analyses methods may be multiple tube fermentation method or membrane filter test as described in the 16th edition of Standard Methods.

c. Minimum sampling frequencies:

Population	Samples/Week
# 500	1
501-3300	2
3301-10,000	3
10,000-25,000	4
> 25,000	5

Also, one coliform sample must be taken and analyzed each day the turbidity exceeds 1 NTU prior to disinfection.

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every four hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the instrument is validated at least weekly.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system must demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each month. To demonstrate adequate inactivations, the system must monitor and record the disinfectant used, disinfectant residual, disinfectant contact time, pH, and water temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system must demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual measurements shall be taken hourly. Continuous monitors are acceptable in place of hourly samples.

b. pH and Temperature must be determined daily for each disinfection sequence prior to the first customer.

2. To avoid filtration, the system must maintain a minimum residual of 0.2 mg/L entering the distribution system and maintain a detectable residual throughout the

distribution system. Performance standards shall be as presented in Section 2.04 B and C.

3. To avoid filtration, the disinfection system must be capable of assuring that the water delivered to the distribution system is continuously disinfected. This requires:

a. Redundant disinfection equipment with auxiliary power and automatic start up and alarm; or

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l.

D. Site Specific Conditions To Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems must meet the following criteria to avoid filtration:

C maintain a watershed control program

C conduct a yearly on-site inspection

C determine that no waterborne disease outbreaks have occurred

C comply with the revised annual total coliform MCL

C comply with TTHM Regulations

1. A watershed control program for systems using groundwater under the influence of surface water shall include as a minimum, the requirements of the Wellhead Protection Program, delineated as follows:

a. Specify the duties of state agencies, local governmental entities and public water supply systems with respect to the development and implementation of The Program;

b. Determine the wellhead protection area (WHPA) for each wellhead as defined in subsection 1428(e) based on all reasonably available hydrogeologic information, groundwater flow, recharge and discharge and other information the State deems necessary to adequately determine the WHPA;

c. Identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

d. Describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training and demonstration projects to protect the water supply within WHPAs from such contaminants.

e. Present contingency plans for locating and providing alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants;

f. Consider all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system; and

g. Provide for public participation.

2. On-Site Inspection. An annual on-site inspection is required to evaluate the watershed control program and disinfection facilities. The system shall be reviewed by a qualified engineer for the systems adequacy for producing safe drinking water. The annual on-site inspection shall include as a minimum:

a. Review the effectiveness of the watershed control program.

b. Review the physical condition and protection of the source intake.

c. Review the maintenance program to insure that all disinfection equipment is appropriate and has received regular maintenance and repair to assure a high operating reliability.

d. Review improvements and/or additions made to disinfection processes during the previous year to correct deficiencies detected in earlier surveys.

e. Review the condition of disinfection equipment.

f. Review operating procedures.

g. Review data records to assure that all required tests are being conducted and recorded and disinfection is effectively practiced.

h. Identify any needed improvements in the equipment, system maintenance and operation, or data collection.

3. Sanitary Survey. In addition to the above requirements, a sanitary survey shall be performed every 5 years by the utility which uses groundwater under the influence of surface water without filtration. The sanitary survey shall include:

a. Review the condition of finished water storage facilities.

b. Determine that the distribution system has sufficient pressure throughout the year.

c. Verify that distribution system equipment has received regular maintenance.

d. Review cross connection prevention program, including annual testing of backflow prevention devices.

e. Review routine flushing program for effectiveness.

f. Evaluate the corrosion control program and its impact on distribution water quality.

g. Review the adequacy of the program for periodic storage reservoir flushing.

h. Review practices in repairing water main breaks to assure they include disinfection.

i. Review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection.

j. Review the operations to assure that any difficulties experienced during the year have been adequately addressed.

k. Review staffing to assure adequate numbers of properly trained and/or certified personnel are available.

l. Verify that a regular maintenance schedule is followed.

m. Audit systems records to verify that they are adequately maintained.

n. Review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

4. No Disease Outbreaks. To avoid filtration, a system using groundwater under the influence of surface water must not have been identified as a source of waterborne disease. If such an outbreak has occurred and (in the opinion of DHH) was attributed to a treatment deficiency, the system must install filtration unless the system has upgraded, its treatment to remedy the deficiency to the satisfaction of DHH.

5. Coliform MCL. To avoid filtration, a system must comply with the MCL for Total Coliforms, established in the Total Coliform Rule, for at least 11 out of 12 of the previous

month unless DHH determines the failure to meet this requirement was not caused by a deficiency in treatment.

6. Total Trihalomethane (TTHM) Regulations. For a system using groundwater under the influence of surface water to continue using disinfection as the only treatment, the system must comply with current and (eventually) pending TTHM Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1294 (June 2000).

2.04 Disinfection

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in Section 2.01.

B. Disinfection treatment shall comply with the following performance standards:

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l for more than four hours in any 24 hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count (HPC) at concentrations less than 500 colony forming units per milliliter shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case by case basis but shall not be less than those reported in Section 2.02(B). The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration (C) times the contact times (T) when the basin is in operation. Disinfectant contact time must be determined by tracer studies.

1. The T10 value will be used as the detention time for calculating CTs. T10 is the detention time at which 90 percent of the flow passing through the vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan must identify how the study will be conducted, the tracer used, flow rates, etc. The plan must also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as *Levenspiel*), or the methodology in the EPA SWTR Guidance Manual.

2. On a case-by-case basis, alternate empirical methods of calculating T10 as outlined in the Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer studies have been conducted and results have been published in the Guidance Manual or the literature.

3. Additional tracer studies may be required by DHH whenever modifications are made which could impact flow distribution, contact time, or disinfectant distribution.

4. CT values utilized in this evaluation shall be those reported in the EPA SWTR Guidance Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1295 (June 2000).

2.05. Design Standards

A. All new treatment and disinfection facilities shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1296 (June 2000).

Section 3: Monitoring Requirements

3.01. Filtration

A. Each supplier using a surface water or groundwater under the direct influence of surface water source shall monitor the turbidity level of the raw water supply by the taking and analyzing of a daily grab sample. Continuous monitoring may be substituted providing the accuracy of the measurements are validated weekly.

B. To determine compliance with the performance standards specified in Section 2.02, each supplier shall determine the turbidity level of representative samples of the combined filter effluent, prior to clearwell storage, at least once every four hours that the system is in operation.

C. For finished water turbidity, continuous turbidity measurements may be substituted for grab sample monitoring provided the supplier validates the accuracy of the measurements on a weekly basis.

D. Suppliers using slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1296 (June 2000).

3.02. Disinfection

A. To determine compliance with disinfection inactivation requirements specified in Section 2.02, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

- 1) temperature of the disinfected water,
- 2) pH(s) of the disinfected water if chlorine is used as a disinfectant,
- 3) the disinfectant contact time(s), and
- 4) the residual disinfectant concentrations before or at the first customer.

B. To determine compliance with the performance standards specified in Section 2.02 or 2.04, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. The residual disinfectant concentrations

must be measured at least at the same points in the distribution system and at the same time that total coliforms are sampled.

C. Suppliers serving fewer than 3300 people may collect and analyze grab samples of disinfectant residual each day in lieu of the continuous monitoring, in accordance with Table 2, provided that any time the residual disinfectant falls below 0.2 mg/l., the supplier shall take a grab sample every four hours until the residual concentrations is equal to or greater than 0.2 mg/l.

Table 2	
Disinfectant Residual Sampling	
System Population	Samples/Day
# 500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1296 (June 2000).

Section 4: Operation

4.01. Operating Criteria

A. All treatment plants utilizing surface water or groundwater under the direct influence of surface water shall be operated by operators certified by DHH.

B. Filtration facilities shall be operated in accordance with the following requirements:

1. Conventional and direct filtration plants shall be operated at flow rates not to exceed three gallons per minute per square foot (gpm/sq ft) for gravity filters. For pressure filters, if approved by DHH, filtration rates shall not exceed two gpm/sq ft.

2. Slow sand filters shall be operated at filtration rates not to exceed 0.10 gallons per minute per square foot. The filter bed shall not be dewatered except for cleaning and maintenance purposes.

3. Diatomaceous earth filters shall be operated at filtration rates not to exceed 1.0 gallon per minute per square foot.

4. In order to obtain approval for higher filtration rates than those specified in this section, a water supplier shall demonstrate to the Department that the filters can achieve an equal degree of performance.

5. Filtration rates shall be increased gradually when placing filters back into service following backwashing or any other interruption in the operation of the filter.

6. Pressure filters shall be physically inspected and evaluated annually for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

C. Disinfection facilities shall be operated in accordance with the following requirements:

1. A supply of chemicals necessary to provide continuous operation of disinfection facilities shall be maintained as a reserve or demonstrated to be available under all conditions and circumstances.

2. An emergency plan shall be developed prior to and implemented in the event of disinfection failure to prevent

delivery to the distribution system of any undisinfected or inadequately disinfected water. The plan shall be posted in the treatment plant or other place readily accessible to the plant operator.

3. System redundancy and changeover systems shall be maintained and kept operational at all times to ensure no interruption in disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1296 (June 2000).

Section 5: Reporting

5.01. DHH Notification

The supplier shall notify DHH within 24 hours by telephone or other equally rapid means whenever:

A. The turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time.

B. More than two consecutive turbidity samples of the combined filter effluent taken every four hours exceed 1.0 NTU.

C. There is a failure to maintain a minimum disinfectant residual of 0.2 mg/l in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l within four hours.

D. An event occurs which may affect the ability of the treatment plant to produce a safe, potable water including but not limited to spills of hazardous materials in the watershed and unit treatment process failures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1297 (June 2000).

5.02. Monthly Report

A. Each supplier with a surface water or groundwater under the direct influence of surface water treatment facility shall submit a monthly report on the operation of each facility to the DHH by the tenth day of the following month.

B. The report shall include the following results of turbidity monitoring of the combined filter effluent:

1. All turbidity measurements taken during the month.

2. The number and percent of turbidity measurements taken during the month which are less than or equal to the performance standard specified for each filtration technology in Section 2.02, or as required for an alternative treatment process. The report shall also include the date and value of any turbidity measurements that exceed performance levels specified in Section 2.02.

3. The average daily turbidity level.

C. The report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. The number of samples where the disinfectant residual is measured.

b. The number of samples where only the heterotrophic plate count (HPC) is measured.

c. The number of measurements with no detectable disinfectant residual and no HPC is measured.

d. The number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter.

e. The number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. The report shall include a written explanation of the cause of any violation of performance standards specified in Section 2.02, 2.03 or 2.04 and operating criteria specified in Section 4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1297 (June 2000).

Section 6: Public Notification

6.01. Consumer Notification

1. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in Section 2.01 or performance standards specified in Sections 2.02, 2.03 and 2.04. The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language:

"The La. Department of Health and Hospitals (DHH) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. DHH has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet DHH requirements is associated with little to none of this risk and should be considered safe."

2. The supplier shall notify persons served by the system whenever there is a failure to comply with monitoring requirements specified in Section 3, the notification shall be given in the manner approved by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), repromulgated LR 26:1297 (June 2000).

David W. Hood
Secretary

0006#031

RULE

Department of Health and Hospitals Office of Public Health Vital Records Registry

Vital Records Issuance, Clerks of District Court
(LAC 48:V.11709)

The Department of Health and Hospitals, Office of Public Health, Vital Records Registry has repealed the Rule entitled Birth Certificate Copies issued by Clerks of Court published in the *Louisiana Register*, Vol. 12, No. 12, December 20, 1986, page 836 and enacts a new rule as authorized by R.S. 40:33 and 40:39.1. The Rule is promulgated in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 117. Availability of Records

' 11709. Issuance of Certified Copies of Vital Records, Clerks of District Court

A. Access to Vital Records Registry Database

1. The state registrar of vital records shall facilitate online computer access by the clerk of district court in each parish to birth and death databases via the data network operated by the office of the Secretary of State to the extent necessary to identify and electronically print certified copies of birth and death certificates. The registrar shall provide a system inquiry interface including print functionality for those birth and death records that can be printed electronically. Access shall be limited to those records that can be electronically issued to the extent necessary to serve authorized customers.

2. The state registrar shall assign vital records system access to clerks of district courts and designated members of their staffs upon receipt of written applications accompanied by properly executed confidentiality forms. The application for system access and confidentiality assurances shall be made on forms supplied by the state registrar. The birth and death database access given to clerks of district courts shall be expanded in logical increments as the missing data fields required to electronically generate certified copies of birth and death records are added, or the images are stored and indexed making them accessible and printable, except that current records (new births and death certificates) shall be made accessible to clerks of district courts for issuance purposes 90 days after the date of the vital event provided they are available in suitable electronic format in the vital records registry database.

B. Vital Records Issuance Services

1. Clerks of district courts may issue birth abstracts (commonly called birth cards) on all birth events more than 90 days old but less than 101 years old, except in those instances where the birth record filed with the vital records registry is a delayed birth certificate (a record filed more than 12 years after birth), the birth is not registered, the certificate filed with the state is irregular or incomplete, or the birth data is not available electronically. In the case of delayed certificates of birth, no birth abstracts will be issued.

2. Clerks of district courts may issue electronic certified copies of long-form birth certificates for those birth events that are more than 90 days old and are available in long-form format in the birth database except in those instances where the birth is not registered, the certificate filed with the state is irregular or incomplete, or the birth data is not available electronically. As additional records become available, the registrar shall enable electronic issuance functionality over the data network of the Secretary of State.

3. Clerks of district courts may issue electronic certified copies of death certificates for those death events that are more than 90 days old and less than 51 years old except in those instances where the death is not registered, the certificate filed with the state is irregular or incomplete, or the death data is not available electronically. As additional records become available, the registrar shall enable electronic issuance functionality over the data network available through the office of the Secretary of State.

4. Government agencies including law enforcement agencies and courts shall be referred to the office of the registrar of vital records for document issuance and vital event verification services, unless the government agency presents a formal release bearing the original signature of the registrant or a member of the registrant's immediate family and pays the statutory document search/issuance fee.

5. In accordance with R.S. 40:39.1 C, certified copies of birth and death records issued through the offices of clerks of district courts shall be accepted as an original record for all legal purposes.

C. Security/Confidentiality

1. Clerks of district courts shall not issue notarized copies of birth or death certificates, nor shall clerks issue certified copies from any source other than the online service provided by the state registrar of vital records.

2. All certified copies of birth and death certificates issued by clerks of district courts shall be issued on security paper provided by the state registrar of vital records.

3. Birth and death certificate issuance services provided by clerks of district courts shall comply with the provisions of R.S. 40:41C.(1) and (2) as they relate to persons authorized to purchase certificates. Applications for certified copies shall be made on standard forms provided or approved by the state registrar of vital records.

4. Clerks of district courts shall only issue certified copies of birth and death certificates to individuals who are authorized by law to receive the documents and who produce proper identification. For the purposes of birth and death certificate issuance, proper identification shall be the same identification criteria used in document issuance offices operated by the state registrar of vital records.

5. Access to the online vital records registry birth and death inquiry systems shall be limited to those individuals assigned user access by the state registrar of vital records.

6. Inquiries against the vital records registry online birth and death systems shall be limited to official inquiries substantiated by a document application form signed by an authorized customer. The statutory fee shall be assessed for each inquiry. The fee is not subject to waiver or refund. No other inquiries against the birth/death database are authorized or allowed. In those instances where the birth or death record is not indexed on the computer, the clerk shall so notify the

customer and shall refer the inquiry to the state registrar of vital records for further investigation.

7. Access to vital records registry security document issuance paper shall be strictly controlled, and the paper shall be stored under lock when not in use. Any loss or theft of security document issuance paper shall be immediately reported to the state registrar.

D. Customer Service Documentation/Retention of Records/Audits

1. Document application forms submitted by customers shall be retained for not less than 3 years, and shall be made available to the registrar of vital records or his designee on request. A photocopy of the identification document(s) presented by the applicant shall be appended to the application form. Alternatively, the clerk may maintain a separate photographic file of the customer and the identification provided by the customer. The identification document must be legible in the photograph.

2. The clerk of court shall key the audit number of the document issuance paper (including voids) used in providing each customer service in the space provided on the research screen to enable the generation of an electronic audit/billing record.

3. The registrar of vital records or his designee shall periodically conduct a site visit and audit at each office where certified copies of birth/death certificates are issued to verify compliance with applicable laws and procedures.

E. Vital Records Issuance and Informational Supplies

1. The registrar of vital records shall supply security birth and death certificate issuance paper to clerks of district courts without charge.

2. The registrar of vital record shall supply document application forms and information sheets to clerks of district courts without charge.

3. Clerks of district courts shall order replacement supplies as necessary on forms provided by the state registrar.

F. Service Fees/Remittance to State Registrar

1. Clerks of district courts shall collect the fees specified in R.S. 40:39.1. As per R.S. 40:40(12), if there is no record on file, the fee shall be retained to cover the cost of the search.

2. The clerk shall remit to the state registrar the fees specified in R.S. 40:40 and the tax specified in R.S. 46:2403 for each certified copy of a vital record issued or searched.

3. On or before the second Friday of each month, the clerk shall submit a monthly report to the state registrar on forms provided by the registrar. The report shall summarize the number of birth and death record services provided during the prior month, the number of sheets of security paper voided, and the total amount of fees collected on behalf of the state registrar. All security document issuance paper voided during the prior calendar month shall be appended to the monthly report. As per R.S. 40:39.1B2, each clerk shall remit payment to the vital records registry on a monthly basis either directly or through the Office of the State Treasurer in a manner mutually agreeable to the clerk and the state registrar of vital records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:33 and 40:39.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Vital Records Registry, LR 26:1300 (June 2000).

David W. Hood
Secretary

0006#099

RULE

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

**Inpatient Hospital Reimbursement
Medicare Part A Claims**

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid reimbursement on Medicare Part A claims for inpatient hospital services to limit payment to the Medicaid maximum payment. Medicare Part A claims for inpatient services rendered in small rural hospitals, as defined in state law, are exempt from the Medicaid maximum payment limitation. The effective date for this rule is July 1, 2000.

If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) is considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

David Hood
Secretary

0006#100

RULE

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

Pharmacy Program Average Wholesale Price (AWP)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 1990 rule governing reimbursement for prescription drugs to limit payments to the lower of: 1) The Average Wholesale Price (AWP) minus 10.5 percent for independent pharmacies (all other Medicaid enrolled pharmacies) and 13.5 percent for chain pharmacies (five or more Medicaid enrolled pharmacies under common ownership); 2) The Louisiana Maximum Allowable Cost limitation plus the Maximum Allowable Overhead Cost; 3) The Federal Upper Limits plus the Maximum Allowable Overhead Cost; or 4) The provider's usual and customary charges to the general public. General public is defined here as all other non Medicaid prescriptions including third-party insurance, pharmacy benefit management and cash. The effective date for this rule is July 1, 2000.

David W. Hood
Secretary

0006#101

RULE

Department of Insurance Office of the Commissioner

Regulation 70C Replacement of Life Insurance and Annuities (LAC 37:XIII.Chapter 89)

Under the authority of R.S. 22:3, et seq., R.S. 22:644.1 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., the Department of adopts the following proposed regulation, with the exception of §8909, to become effective July 1, 2000. This intended action complies with the statutory law administered by the Department of Insurance.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 89. Regulation 70. Replacement of Life Insurance and Annuities

§8901. Purpose

A. The purpose of this regulation is:

1. to regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities;

2. to protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions. It will:

a. assure that purchasers receive information with which a decision can be made in his or her own best interest;

b. reduce the opportunity for misrepresentation and incomplete disclosure; and

c. establish penalties for failure to comply with requirements of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1301 (June 2000).

§8903. Definitions

Direct-response SolicitationC a solicitation through a sponsoring or endorsing entity or individual solicitation solely through mails, telephone, the internet or other mass communication media.

Existing InsurerC the insurance company whose policy or contract is or will be changed or affected in a manner described within the definition of *replacement*.

Existing PolicyC an individual life insurance policy in force, including a policy under a binding or conditional receipt or a policy that is within an unconditional refund period.

Existing ContractC an individual annuity contract in force, including a contract that is within an unconditional refund period.

Financed PurchaseC the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from values of an existing policy to pay all or part of any premium due on a new policy. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender, or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company, within four months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in §8909.A.5 of this regulation.

IllustrationC means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years as defined in Regulation 55 of the Department of Insurance.

Policy SummaryC for the purposes of this regulation, means:

1. for policies or contracts other than universal life policies, a written statement regarding a policy or contract which shall contain, to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan;

2. for universal life policies, a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders); the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

ProducerC for the purposes of this regulation, means agents and brokers.

Replacing InsurerC the insurance company that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

Registered Contract means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

Replacement a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be:

1. lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated; or
2. converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of non-forfeiture benefits or other policy values; or
3. amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid; or
4. reissued with any reduction in cash value; or
5. used in a financed purchase.

Sales material means a sales illustration and any other written, printed or electronically presented information created, or completed or provided by the company or producer and used in the presentation to the policy or contract owner related to the policy or contract purchased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1301 (June 2000).

§8905. Exemptions

A. Unless otherwise specifically included, this regulation shall not apply to transactions involving:

1. credit life insurance;
2. group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single provider in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of §8915;
3. group and/or individual life insurance and annuities used to fund pre-arranged funeral contracts;
4. an application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised, or when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner of insurance;
5. proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;
- 6.a. policies or contracts used to fund:
 - i. an employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);
 - ii. a plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

- iii. a governmental or church plan defined in Section 414, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code; or

- iv. a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

- b. notwithstanding Subparagraph 6.a of this Subsection, this regulation shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more annuity providers or policy providers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy. As used in this Subsection, direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement; or, when initiated by an individual employee, assisting with the selection of investment options offered by a single provider in connection with enrolling that individual employee;

7. where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member; or

8. existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed;

9. immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this regulation;

10. structured settlement annuities;

11. any insurer that markets under the Home Service Marketing Distribution System as defined in R.S. 22:1114M(2)(c).

B. Registered contracts shall be exempt from the requirements of §8911.A.3 and §8913.B with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1302 (June 2000).

§8907. Duties of Producers

A. A producer who initiates an application shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts.

1. If the applicant indicates that there are no existing policies or contracts, then the producer's duties with respect to replacement are complete.

2. If the applicant indicates that there are existing policies or contracts, the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as

described in Appendix A or other substantially similar form approved by the commissioner of insurance; provided, however, no approval shall be required when amendments to the notice are limited to the omission of references not applicable to the product being sold or replaced. The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud and that it was left with the applicant.

B. The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by the name of the insurer, the insured or annuitant, and the policy or contract number if available; and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, then alternative identification, such as an application or receipt number, shall be listed.

C. In connection with a replacement transaction, the producer shall leave with the applicant the original or a copy of all sales material at the time an application for a new policy or contract is completed. Electronically presented sales material shall be provided to the policyholder in printed form no later than at the time of policy or contract delivery.

D. Except as provided in §8911.C, in connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1302 (June 2000).

§8909. Duties of Insurers that Use Producers

A. Insurers shall maintain a system of supervision and control to insure compliance with the requirements of this regulation, including at least the following:

1. informing its producers of the requirements of this regulation and incorporate the requirements of this regulation into all relevant producer training manuals prepared by the insurer;
2. providing its producers a written statement of the company's position with respect to the acceptability of replacements and giving guidance to its producers as to the appropriateness of these transactions;
3. a system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with Paragraph 2 above;
4. procedures to confirm that the requirements of this regulation have been met; and
5. procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported as such by the applicant or producer. Compliance with this Subsection may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring.

B. Insurers shall have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer, and shall produce, upon request, and make such records available to the Department of Insurance. The capacity to monitor shall include the ability to produce records for each producer's:

1. life replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance;
2. number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance;
3. annuity contract replacements as a percentage of the producer's total annual annuity contract sales;
4. number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the company's monitoring system as required by Paragraph A.5 of this Section; and
5. replacements, indexed by replacing producer and existing insurer.

C. Insurers shall:

1. require with or as a part of each application for life insurance or an annuity, a signed statement by both the applicant and the producer as to whether the applicant has existing policies or contracts;
2. if there is indication of existing policies or contracts:
 - a. require with each application for life insurance or an annuity a completed notice regarding replacements as contained in Appendix A;
 - b. be able to produce completed and signed copies of the notice regarding replacements for at least five years after the termination or expiration of the proposed policy or contract;
3. in connection with a replacement transaction, be able to produce copies of any sales material as required by §8907.D, the basic illustration and any supplemental illustrations related to the specific policy or contract which is purchased and the producer's and applicant's signed statements with respect to financing and replacement for at least five years after the termination or expiration of the proposed policy or contract;
4. ascertain that the sales material and illustrations required by §8907.D of this regulation meet the requirements of this regulation and are complete and accurate for the proposed policy or contract; and
5. if an application does not meet the requirements of this regulation, notify the producer and applicant and fulfill the outstanding requirements;
6. records required to be retained by this regulation may be maintained in paper, photograph, microprocess, magnetic, mechanical or electronic media or by any process which accurately reproduces the actual document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1303 (June 2000).

§8911. Duties of Replacing Insurers that Use Producers

A. Where a replacement is involved in the transaction, the replacing insurer shall:

1. verify that the required forms are received and are in compliance with this regulation;

2. notify any other existing insurer that may be affected by the proposed replacement within five business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application;

3. mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within five business days of a request from an existing insurer;

4. be able to produce copies of the notification regarding replacement required in §8907.B, indexed by producer, for at least five years or until the next regular examination by the insurance department of its state of domicile, whichever is later; and

5. provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract; such notice may be included in Appendix A or C.

B. In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, the insurer shall allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases the credit may be limited to the amount the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

C. If an insurer prohibits the use of sales material other than that approved by the company, as an alternative to the requirements of §8907.D, the insurer may:

1. require with each application a statement signed by the producer that:

a. represents that the producer used only company-approved sales material; and

b. states that copies of all sales material were left with the applicant in accordance with §8907.C; and

2. within 10 days of the issuance of the policy or contract:

a. notify the applicant by letter or verbal communication by a person having duties separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with §8907.C;

b. provide the applicant with a toll-free number to contact company personnel involved in the compliance function if such is not the case; and

c. stress the importance of retaining copies of the sales material for future reference; and

3. be able to produce a copy of the letter or other verification in the policy file for at least five years after the termination or expiration of the policy or contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1304 (June 2000).

§8913. Duties of the Existing Insurer

A. Where a replacement is involved in the transaction, the existing insurer shall:

1. retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five years or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later;

2. send a letter to the policy or contract owner of the right to receive information regarding the existing policy or contract values including, if available, an in force illustration or policy summary if an in force illustration cannot be produced within five business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within five business days of receipt of the request from the policy or contract owner;

3. upon receipt of a request to borrow, surrender or withdraw any policy values, send to the applicant a notice, advising the policy owner that the release of policy values may affect the guaranteed elements, non-guaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separate from the check if the check is sent to anyone other than the policy owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1304 (June 2000).

§8915. Duties of Insurers with Respect to Direct Response Solicitations

A. In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement, as provided in Appendix B, or other substantially similar form approved by the commissioner of insurance.

B. If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:

1. provide to applicants or prospective applicants, with the policy or contract, a notice as provided in Appendix C, or other substantially similar form approved by the commissioner of insurance. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the commissioner of insurance. The insurer's obligation to obtain the applicant's signature shall be satisfied if the insurer can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this Paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this section; and

2. comply with the requirements of §8911.A.2 and A.3 if the applicant furnishes the names of the existing insurers, and shall comply with the requirements of §8911.A.4, §8911.A.5 and §8911.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1305 (June 2000).

§8917. Violations and Penalties

A. Any failure to comply with this regulation shall be considered a violation of R.S. 22:1214. Examples of violations include:

- 1. any deceptive or misleading information set forth in sales material; or
- 2. failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement; or
- 3. the intentional incorrect recording of an answer; or
- 4. advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer; or
- 5. advising a policy or contract owner to write directly to the company in such a way as to attempt to obscure the identity of the replacing producer or company.

B. Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate this regulation.

C. Where it is determined that the requirements of this regulation have not been met, the replacing insurer shall provide to the policy owner either an in force illustration, if available, or a policy summary for the replacement policy, or available disclosure document for the replacement contract and the appropriate notice regarding replacements in Appendix A or C.

D. Violations of this regulation shall subject the violators to penalties as provided by R.S. 22:1217, 1217.1, and any other applicable provisions of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner of Insurance, LR 26:1305 (June 2000).

§8919. Effective Date

A. Except for the provisions contained in §8909, this regulation shall be effective July 1, 2000. The provisions contained in §8909 shall be effective and take effect on January 1, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:1305 (June 2000).

§8921. Appendix A

IMPORTANT NOTICE:

REPLACEMENT OF LIFE INSURANCE OR ANNUITIES
(Note C This document must be signed by the applicant and the producer, if there is one, and a copy left with the applicant)

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A *replacement* occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on an existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A *financed purchase* occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? YES NO

2. Are you considering using funds from your existing policies to pay premiums due on the new policy or contract? YES NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY#	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
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- 1.
- 2.
- 3.

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name	Date
--	------

Producer's Signature and Printed Name	Date
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I do not want this notice read aloud to me. _____ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing

of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS:

- C Are they affordable?
- C Could they change?
- C You're older—are premiums higher for the proposed new policy?
- C How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES:

- C New policies usually take longer to build cash values and to pay dividends.
- C Acquisition costs for the old policy may have been paid; you will incur costs for the new one.
- C What surrender charges do the policies have?
- C What expense and sales charges will you pay on the new policy?
- C Does the new policy provide more insurance coverage?

INSURABILITY:

- C If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
- C You may need a medical exam for a new policy.
- C Claims on most new policies for up to the first two years can be denied based on inaccurate statements.
- C Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

- C How are premiums for both policies being paid?
- C How will the premiums on your existing policy be affected?
- C Will a loan be deducted from death benefits?
- C What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

- C Will you pay surrender charges on your old contract?
- C What are the interest rate guarantees for the new contract?
- C Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

- C What are the tax consequences of buying the new policy?
- C Is this a tax free exchange? (See your tax advisor.)
- C Is there a benefit from favorable "grand-fathered" treatment of the old policy under the federal tax code?
- C Will the existing insurer be willing to modify the old policy?
- C How does the quality and financial stability of the new company compare with your existing company?

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:644.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner Insurance, LR 26:1307 (June 2000).

James H. "Jim" Brown
Commissioner Of Insurance

0006#078

RULE

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-BC Financial Security
(LAC 43:XIX.104)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-B.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§104. Financial Security

A. On and after July 1, 2000, financial security shall be provided pursuant to this section for each well which requires an application to drill from the Office of Conservation, unless financial security is otherwise provided pursuant to the statutes, rules and regulations of the Office of Conservation, in order to ensure that such well is plugged and abandoned and associated site restoration is accomplished in accordance with the following.

1. an operator of record who has exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation for a period of 48 months immediately preceding the permit date of the well and who has no outstanding violations shall be exempt from providing financial security under this section. A compliance order and/or civil penalty which has been timely satisfied shall not cause an operator of record to be considered a noncompliant operator for the purposes of this section.

2. an operator of record who has not been a registered operator of record for a period of 48 months immediately preceding the permit date of the well in question but who otherwise has exhibited a record of compliance with the statutes, rules and regulations of the Office of Conservation and who has no outstanding violations shall provide a certificate of deposit, bond or letter of credit in a form acceptable to the commissioner within 30 days of completion date or date said well is retained for future utility as reported on Form Comp or Form WH-1.

3. an operator of record who has not exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation for a period of 48 months immediately preceding the permit date of the well in question shall provide a certificate of deposit, bond or letter of credit in a form acceptable to the commissioner prior to issuance of permit to drill.

4. the financial security requirements provided herein shall apply to all Class V wells for which an application to drill is submitted on and after July 1, 2000, at the discretion of the commissioner.

5. the financial security requirements provided herein shall also apply to an Application to Amend Permit to Drill for change of operator on any well permitted on and after July 1, 2000.

B. Compliance with this financial security requirement shall be provided by any of the following or a combination thereof:

1. certificate of deposit issued in sole favor of the Office of Conservation from a financial institution authorized to do business in the state of Louisiana. A certificate of deposit may not be withdrawn, canceled, rolled over or amended in any manner without the approval of the commissioner; or

2. an individual well bond or a blanket well bond (multiple wells) in a form prescribed by the commissioner and issued by an appropriate institution authorized to do business in the state of Louisiana in sole favor of the Office of Conservation; or

3. letter of credit issued by a financial institution authorized to do business in the state of Louisiana in a form prescribed by the commissioner.

C. Financial Security Amount

1. Individual well financial security shall be provided in accordance with the following:

a. land location (any location not requiring a drill barge, drill ship, jack-up rig, etc.) for each foot of well depth as follows.

Depth	Amount
#3000'	\$1.00 per foot
3001-10000'	\$2.00 per foot
\$10001'	\$3.00 per foot

b. water location (any location requiring a drill barge, drill ship, jack-up rig, etc.): \$8.00 for each foot of well depth.

2. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells	Amount
#10	\$25,000.00
11-99	\$125,000.00
\$100	\$250,000.00

3. The amount of the financial security as specified above may be increased at the discretion of the commissioner based on the compliance history of the operator of record and/or the determination by the commissioner that the location of the drill site is in an environmentally sensitive area.

D. A change of name by a compliant operator of record through acquisition, merger, or otherwise may not preclude said successor operator from meeting the requirements of Paragraph A.1 above.

E. The commissioner retains the right to utilize the financial security provided for a well in responding to an emergency applicable to said well in accordance with R.S. 30:6.1.

F. Financial security shall remain in effect until release thereof is granted by the commissioner pursuant to written request by the operator of record. Such release shall only be granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations. In the event

provider of financial security becomes insolvent, operator of record shall provide substitute form of financial security within 30 days of notification thereof.

G. Plugging and abandonment of a well, associated site restoration, and release of financial security constitutes a presumption of proper closure but does not relieve the operator of record from further claim by the commissioner of conservation should it be determined that further remedial action is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4, et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended by the Department of Natural Resources, Office of Conservation LR 26:1308 (June 2000).

Philip N. Asprodites
Commissioner

0006#072

RULE

**Department of Public Safety and Corrections
Board of Private Investigator Examiners**

Dissemination of Disciplinary Information
(LAC 46:LVII.927)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Department of Public Safety and Corrections, State Board of Private Investigator Examiners, hereby amends Part LVII of Title 46, amending Chapter 9, by adding section 927 relative to dissemination of discipline information.

Title 46

PROFESSIONAL AND OCCUPATIONS STANDARDS

Part LVII. Private Investigator Examiners

Chapter 9. Rules of Adjudication for Board of Private Investigator Examiners

' 927. Dissemination of Disciplinary Information

A. Notice to Other States. The Executive Director of the Board shall transmit notice of all final license revocations and suspensions to the licensing agency of every other jurisdiction in which the respondent is licensed.

B. Public Notice of Discipline Imposed. The Executive Director of the Board shall cause notices of all final license suspensions and revocations to be published in a newspaper of general circulation in each parish in which the private investigator maintained an office.

C. The notice shall:

1. state the statute or rule or regulation found to have been violated and which resulted in the suspension or revocation;

2. state the penalty imposed for the violation; and

3. request members of the public to notify the Board if the disciplined individual is operating as a private investigator without a license.

D. These publication requirements are mandatory and will not be waived.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505A(3) and B(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Board of Private Investigator Examiners, LR 26:1309 (June 2000).

Bruce Childers
Chairman

0006#076

RULE

**Department of Public Safety and Corrections
Corrections Services**

Drug Free Workplace (LAC 22:I.203)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby adopts amendments to regulations dealing with the Drug-Free Workplace.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 2. Personnel

§203. Drug-Free Workplace

A. - F.2.a. ...

b. abnormal conduct or erratic behavior;

F.2.c. - F.4. ...

5. Random. All employees who occupy safety/security sensitive positions (as defined in this regulation) will be subject to random drug testing. On a quarterly basis, a list of social security numbers representing at least 5 percent of a unit's employees will be selected at random by a computer-generated selection process. This list will be provided to each institution, the division of Probation and Parole, the Division of Youth Services, Prison Enterprises and Headquarters.

F.5.a. - H. ...

1. Drug screening instruments approved by the secretary may be utilized as a preliminary analysis to determine the need for further testing, but may not be used as the basis for any disciplinary action or other adverse action. (Formal testing may be utilized initially in lieu of preliminary analysis when the unit head determines that this is the most efficient method.)

H.2. - 2.a. ...

b. All collection of urine specimens shall be made with regard to gender sensitivity and privacy of the individual.

c. Direct observation during collection of the urine specimen may be allowed only under the following conditions:

H.2.c.i. - H.2.d. ...

e. Appropriate security measures should be utilized in the collection area when direct observation is not authorized.

H.3. - I.1. ...

2.a. A portable breathalyzer or other instrument approved by the secretary should be used to determine violation of this regulation.

b. In the event of a positive reading on the portable breathalyzer, a second test must be conducted.

I.3. - K.5. ...

K.6. By October 1 of each year, each unit business office will submit a report to the Headquarters Human Resources Office detailing the number of employees affected by the drug testing program, the categories of testing conducted, the associated costs of testing, and the effectiveness of the program. In conjunction with the undersecretary's office, the Headquarters Human Resources Office will compile the Department's Annual Drug Testing Report for submission to the Division of Administration by November 1 of each year. (See §203.M.)

L. Violation of this Regulation. The guidelines provided for in the Corrections Services Employee Manual for the application of disciplinary penalties will be utilized in the administration of this regulation. Formal testing with positive results may be cause for initiation of disciplinary action. When a confirmed positive formal test result does not result in termination, referral to the "Employee Assistance Program" or other individual or agency equipped to coordinate accessibility to substance abuse education or counseling is appropriate.

M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 11:1092 (November 1985), amended LR 12:246 (April 1986), LR 25:522 (March 1999), LR 26:000 (June 2000).

Richard L. Stalder
Secretary

0006#106

RULE

**Department of Public Safety and Corrections
Corrections Services**

**Personnel
Equal Employment Opportunity
(LAC 22:I.Chapter 2)**

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby adopts regulations dealing with equal employment opportunity.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 2. Personnel

§201. Equal Employment Opportunity

A. Purpose:

1. to establish the secretary's commitment to equal employment opportunities for all employees, applicants, and candidates for employment (including qualified ex-offenders);

2. to establish formal procedures regarding the reasonable accommodation of employees, the public, applicants and candidates; and

3. to constitute the Index of Essential Job Functions as part of this regulation.

B. Applicability. All applicants, candidates visitors, employees and units of Corrections Services.

C. Definitions

*Age Discrimination in Employment Act (ADEA)*Ca law passed by congress to protect individuals 40 years of age and over from arbitrary discrimination in employment practices, unless age is a bona fide occupational qualification.

*Americans with Disabilities Act (ADA)*Ca comprehensive law passed by congress to protect disabled persons from discrimination in employment, hiring, transportation, access to public facilities and services, and telecommunications.

*Applicant*Ca person who has applied for a job and whose qualification for such is unknown.

*Candidate*Ca person who has successfully passed the required test and/or meets the civil service minimum qualifications for the job sought.

*Disability*Cwith respect to an individual, the term disability means:

a. a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

b. a record of such an impairment; or

c. being regarded as having such an impairment.

*Equal Employment Opportunity (EEO)*Cthe operation of a system of human resource administration which ensures an environment that will provide an equal opportunity for public employment to all segments of society based on individual merit and fitness of applicants without regard to race, color, religion, sex, age, national origin, political affiliation or disability (except where sex, age or physical requirements constitute a bona fide occupational qualification necessary to the proper and efficient operation of the agency/organization). The Equal Employment Opportunity Commission (EEOC) is the federal regulatory body for EEO related complaints and charges.

*Essential Functions*Cbasic job duties that an employee/applicant must be able to perform, with or without reasonable accommodation.

*Family and Medical Leave*Cleave for which an employee may be eligible under the provisions of the Family and Medical Leave Act of 1993. (See Department Regulation No. A-02-005 "Family and Medical Leave of Absence" for eligibility guidelines.)

*Qualified Individual with a Disability*Can individual with a disability (as previously defined herein) who can perform the essential functions of the job with or without reasonable accommodation.

D. Policy. It is the secretary's policy to assure equal opportunities to all employees, applicants and candidates for employment without regard to race, religion, color, national origin, sex, disability or age. Exceptions:

1. where age, sex, or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient operations; and

2. where the implications of nepotism restrict such employment or employment opportunity.

Equal opportunities will be provided for employees in areas of compensation, benefits, promotion, recruitment, training, and all other conditions of employment. Notices of equal employment opportunities will be posted in prominent accessible places at each employment location.

E. Procedures

1. Coordination of ADA Matters

a. The secretary will establish and designate the Corrections Services' ADA Coordinator.

b. Corrections Services' ADA coordinator is charged with reviewing, recording, and monitoring Corrections Services' ADA matters and will also advise and make recommendations to the secretary or his designee of such matters as appropriate.

c. Each unit head will designate a unit ADA coordinator to coordinate unit ADA matters.

2. Requests for Accommodation

a. A qualified individual with a known disability of a permanent nature should be accommodated where reasonably possible, providing the accommodation does not constitute a danger to the individual or others, and does not create undue hardship on Corrections Services or its employees. (If such individual is an employee or a candidate for employment, the individual must be able to perform the essential functions of the job with said accommodation.)

b. Generally, any person (employee, applicant, candidate, or visitor) may complete a "Request for Accommodation" form (see Attachment A). The person completing the form must forward it to the designated unit ADA coordinator for processing and action as deemed appropriate by the unit head. The unit head will insure that the person is notified of and receives a copy of the decision. A copy of the completed Request for Accommodation Form containing the request for accommodation along with the Unit Head's response to the request will be forwarded to Corrections Services' ADA coordinator for recording purposes.

c. Accommodation may also be requested (by employees and candidates) in the space provided on the applicable Essential Functions Form. Such request will be processed in the same manner as the "Request for Accommodation" Form described above.

3. Essential Job Functions

a. General Requirements

i. Employment candidates must complete an Essential Functions Form at the time of interview for employment and/or return to employment. Employees may be required to complete an up-to-date Essential Functions Form as appropriate and when deemed necessary by the unit head in order to insure that the fundamental mission of the department is sustained (see Section 7.C.2 for specific information).

ii. The Index of Essential Job Functions contains the Essential Functions Form for each job category used by Corrections Services. The Index is maintained in each Human Resources Office and is considered a part of this regulation. Revisions to the Index require the approval of the secretary.

b. Employee and Unit Specific Requirements. Employees may be required by the unit head to complete an up-to-date Essential Functions Form under the following conditions (not necessarily all inclusive):

i. exhaustion of sick leave and exhaustion of Family and Medical Leave Act (FMLA) entitlement (if applicable);

ii. expressed inability to participate in a mandatory work-related activity (i.e. training) and/or to perform essential job functions; and/or

iii. appearance of the inability to perform essential job functions.

When any of the described conditions exist, the unit head will require the employee to provide an up-to-date Essential Functions Form and Medical Certification Form (see Attachment B) from the employee's health care provider (at the unit's expense for Section 7.C.2)c.) so the employee's status under the ADA can be assessed. The Medical Certification Form must include: a prognosis; whether the condition is temporary or permanent; when the condition began; the expected date of return to duty; whether the employee is able to perform the essential functions of his job with or without accommodation and a description of the accommodation needed. (In certain situations, a second opinion by an independent third party may be appropriate. This opinion would be at the unit's expense.)

4. Determination of Disability, Accommodation and Return to Work

a. Upon receipt of the information requested relative to the employee's condition, the unit head will determine (with the assistance of Corrections Services' ADA coordinator as needed) whether the request/condition qualifies for ADA accommodation and take action as appropriate. Consideration should be on a case-by-case basis using the following guidelines.

i. If an employee falls under Section 7.C.2) b. or c. and the unit head is unable to determine whether this is due to a temporary or permanent condition, the unit head may place the employee in forced leave consistent with civil service rules until such time that a determination can be made.

ii. If the condition is not qualifying, leave under FMLA (if eligible) or a temporary duty assignment may be appropriate. When feasible, employees who are temporarily disabled may be allowed to return to work in other assignments. However, if such employee is unable to return to work in any manner and has exhausted his sick leave and FMLA entitlement, separation for exhaustion of sick leave is an option.

iii. If the disability is qualifying but no accommodation is available or the requested accommodation cannot be granted, the unit head will take appropriate action and then forward a copy of the completed Request For Accommodation Form and/or the Essential Functions Form relating to any request for accommodation to the Corrections Services' ADA coordinator.

b. Reasonable accommodation(s) should be considered for employees who are qualified individuals with a permanent disability prior to separation from employment due to exhaustion of sick leave. Employees subject to such separation should also have exhausted any FMLA entitlement.

c. Each unit head will ensure that copies of the completed Request for Accommodation Form and/or Essential Functions Form relating to any request for accommodation are forwarded to the Corrections Services' ADA coordinator.

5. Conciliation Options for EEO and ADA Concerns

a. Should a person feel that he has experienced discrimination in any manner or not be satisfied with the results of his request for accommodation, he may seek conciliation through Corrections Services' grievance process (Department Regulation No. A-02-001 "Employee Manual"), through the EEOC for employment related complaints and/or the U.S. Department of Justice (USDOJ) for issues not related to employment.

b. Persons are encouraged to use the internal procedures to address and resolve complaints to the extent possible. Use of these internal procedures does not restrict a person from filing with the appropriate federal agency prior to exhaustion of the department's internal process(es).

6. Departmental Conciliation of EEO and ADA* Matters

a. Headquarters' Employee Relations Division (ERD) will coordinate the department's response(s) to complaints and charges of discrimination regarding equal employment opportunity matters. Generally, complaints/charges may be addressed through the internal grievance procedure when such a grievance has been filed and heard at the appropriate unit levels.

b. For formal charges generated by the EEOC or the USDOJ, the unit head, the applicable unit's attorney, other appropriate personnel and ERD will develop the Department's response and conciliation opinion (if applicable). Any unit receiving a "Notice of Charge of Discrimination" document or similar notice from the USDOJ must forward the notice to ERD upon receipt. Responses to the charges will be under the signature of the Secretary or his designee.

c. The secretary's approval is required for acceptance or presentation of conciliation agreements or settlements.

*This section applies when ADA related matters are not resolved under conditions outlined in Section 7.C.

7. Employment Applications of Ex-Offenders

a. All applications for employment received from persons who are ex-offenders will be reviewed by a committee appointed by the secretary. Consideration will be given to the unit head's recommendation, the ex-offenders' crime, sentence, institutional record and length of time free from other convictions. The committee's recommendations will then be submitted to the secretary or his designee for review with the unit head.

b. Ex-offenders will not be eligible for employment in positions which require an employee to carry a firearm in the performance of duty. This restriction is based on applicable civil service job qualifications and state and federal law.

Additional information pertaining to EEO, ADA and ADEA is available in the Human Resources Office of any Corrections Services' unit or office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:225, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:000 (June 2000).

<p>REQUEST FOR ACCOMMODATION Louisiana Department of Public Safety and Corrections Corrections Services</p>	Institution: <hr/> Division:
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SECTION: 1- Requestor
 Complete Sections 1, 2, and 3. Please PRINT all information. Return the completed request to the Unit ADA Coordinator.

TO: (Facility/Office/Unit Head)	Date: (Month/Day/Year)
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Requestor:	ID#
------------	-----

Address:	
----------	--

Requestor: (Check only one)

Employee ____ Inmate ____ Other _____
 (Briefly Identify)

SECTION 2: - Request is for what Area? Check only One.

____ Personal Disability Accommodation	____ Structural Accessibility
____ Program Participation	____ Other - Specify

SECTION 3: - Briefly state the problem and the proposed solution - Use additional pages as needed.

RESPONSE TO REQUEST

Date Received: (Month/Day/Year)	_____Approved _____Modified _____Disapproved
---------------------------------	--

Comments:

AUTHORIZATION:	Date: (Month/Day/Year)
----------------	------------------------

RFA Number - Assigned by ADA Coordinator	Entered/Logged Into Master File (Date) Copy sent to ADA HQ Coordinator (Date)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:225, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:000 (June 2000).

§205. Medical Certification Form

Attachment B

MEDICAL CERTIFICATION FORM	
Employee Name:	Date:
Unit:	
Job Title:	
Telephone Number:	SS#
The following information is needed to assess the employee's request under the Americans with Disabilities Act.	
Type of Prognosis: (Please explain in detail)	
Is this Condition: _____ Temporary _____ Permanent	
Date the Condition Began:	Date of Return to Work:
Does this condition allow the employee to perform the Essential Functions of his job? ____YES ____NO	
If not, please describe what type of accommodation is needed for which essential function.	
Other Comments:	
Employee's Signature:	Date:
Supervisor's Signature:	Date:
Health Care Provider's Signature:	Date:

**Department of Public Safety & Corrections
Corrections Services
Headquarters ADA Office
P.O. Box 94304
Baton Rouge, Louisiana 70804**

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:225, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:000 (June 2000).

Richard L. Stalder
Secretary

0006#107

RULE

Department of Public Safety and Corrections Corrections Services

VisitationCAttorneys (LAC 22:I.317)

In accordance with the Administrative Procedure Act, R.S. 49:53(B), the Department of Public Safety and Corrections, Corrections Services, repeals the prior regulation dealing with attorney visits to adult and juvenile institutions and adopts new regulations dealing with attorney visits to adult and juvenile institutions.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§317. Visitation: Attorneys

A. Purpose. To provide uniform procedures for the approval and conduct of visits by attorneys to inmates.

B. ApplicabilityCDeputy Secretary, Assistant Secretaries and all Wardens. It is the warden's responsibility to convey the contents of this regulation to all inmates, affected employees and attorneys seeking to visit.

C. Definition

*Inmate*Crefers to anyone committed to the custody or supervision of the department (whether as an adult or juvenile in this context.)

D. Policy. It is the secretary's policy that attorney visits be in accordance with the procedures outlined herein.

E. Procedures

1. Approval of Attorneys: An attorney's credentials must be verified through the State Bar Association prior to being approved to visit or initiate privileged communication with inmates.

2. Approval of Authorized Representatives. Paralegal assistants, law clerks, and investigators may be permitted to enter the institution to conduct interviews with inmate clients of their supervising attorney, either with the attorney or alone. Such permission is at the discretion of the warden, who may approve or disapprove these requests. Prior to a paralegal assistant (hereinafter referred to as paralegal), law clerk, or investigator being approved to enter the grounds of the institution, the following criteria must be met by the employing attorney.

a. The paralegal, law clerk, or investigator must not be on the visiting list of any inmate confined in a state institution (except for immediate family members).

b. A paralegal must have completed a paralegal or legal assistant study program at an accredited four-year college or junior college, or have completed a paralegal or

legal assistant study program approved by the American Bar Association. (Certification by the National Association of Legal Assistants, Inc. as a Certified Legal Assistant (CLA) may be substituted for the aforementioned programs.)

c. The employing or supervising attorney must submit an affidavit (see attached form) to the warden of the institution to be visited certifying the following prior to the approval for a paralegal, law clerk, or investigator to enter institutional grounds:

i. the individual's name, social security number, and birth date;

ii. the length of time the individual has been employed or supervised by the attorney;

iii. paralegals and investigators must attach a copy of their certification or license to the affidavit.

d. This information will then be verified, and the attorney notified of the disposition of the request. Thereafter, for a period not to exceed one year from the date of approval, as long as the paralegal, law clerk, or investigator continues in the employ or under the supervision of the same attorney, visits may be approved.

3. Scheduling. Visits by attorneys and their authorized representatives must be scheduled through the institution at least 24 hours in advance.

4. Time of Visits. Visits by attorneys and their authorized representatives must normally take place Monday through Friday, excluding holidays, between the hours of 8 a.m. and 4 p.m.

5. Exceptions

a. The warden may approve special visits not in conformity with Paragraphs 1, 2, 3, and 4 when unusual circumstances warrant.

b. Any improper acts or unethical behavior with an inmate during a visit may result in an attorney or their authorized representatives being denied future requests to visit an inmate.

F. Limitations on Visits

1. Number of Inmates. Generally, no more than 10 inmates may be seen at any one time, and no more than 20 on any one day. Further limitations may be imposed by the Warden if valid reasons exist.

2. Number of Attorneys. Generally, no more than two persons (attorneys, paralegals, law clerks, investigators or any combination thereof) may see an inmate on any one day; however, the number visiting at one time may be limited based on available space and security constraints. Exceptions may be approved for good cause by the warden.

G. General

1. Paralegals, law clerks, and investigators may be required to attend training/orientation prior to be allowed to visit.

2. Inmates may refuse to see any attorney, but such refusal should be in writing.

3. A log shall be maintained of all visits by attorneys, paralegals, law clerks, and investigators.

4. Visits may be visually observed, but conversations between inmates and counsel shall not, under any circumstance, be monitored.

5. Attorneys, paralegals, law clerks, and investigators are subject to the procedures regarding searches outlined in Department Regulation No. C-02-005 "Searches of Visitors," as are all other visitors.

H. Exception. Nothing contained in this regulation shall apply to attorneys representing the state, the department, or the institution.

STATE OF _____

PARISH/COUNTY OF _____

PARALEGAL, LAW CLERK, OR INVESTIGATOR AFFIDAVIT

BEFORE ME, the undersigned Notary, personally came and appeared _____ (1) who after being duly sworn did depose and say that:

I am an attorney-at-law and I am presently representing _____ (2) an inmate confined by the Louisiana Department of Public Safety and Corrections. _____ (3) is employed or supervised by me as a _____ (4), and has been since _____ (5).

Should the individual leave my employ or supervision, I will notify the institution.

Attorney-at-Law

Sworn to and subscribed before me this ____ day of _____, _____ at _____.

Notary

- (1) Attorney's name
- (2) Inmate's name and DOC #
- (3) Representative's name, social security number and birth date
- (4) Paralegal, law clerk, or investigator
- (5) Beginning date of employment or supervision

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:000 (June 2000).

Richard L. Stalder
Secretary

0006#104

RULE

**Office of Public Safety and Corrections
Gaming Control Board**

Definitions, Nongaming Suppliers, Imposition of Sanctions
(LAC 42:XIII.1701, 2108 and 2325)

The Gaming Control Board hereby adopts amendments to LAC 42:XIII.1701 and 2325 and adopts LAC 42:XII.2108.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 17. General Provisions

§1701. Definitions

A. As used in the regulations, the following terms have the meanings described below:

Act the Louisiana Riverboat Economic Development and Gaming Control Act.

Agent any commissioned Louisiana state police trooper or designated employee of the Louisiana State Police, Riverboat Gaming Enforcement Division.

Applicant Records those records which contain information and data pertaining to an applicant's criminal record, antecedents and background, and the applicant's financial records, furnished to or obtained by the division from any source incidental to an investigation for licensure, findings of suitability, registration, or other affirmative approval.

Architectural Plans and Specifications or *Architectural Plans* or *Plans* or *Specifications* Call of the plans, drawings, and specifications for the construction, furnishing, and equipping of a riverboat, including, but not limited to, detailed specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the component parts of the vessel, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers. *Architectural Plans and Specifications* does not include *FF&E*, as defined in this Chapter.

Associated Equipment any gaming equipment which does not affect the outcome of the game, except as otherwise provided in these regulations.

Berth a location where a riverboat is or will be authorized to dock as provided in the act and regulations.

Business Year the annual period used by a licensee for internal accounting purposes as defined and approved by the division.

Candidate any person whom the division believes should be placed on the list of excluded persons.

Certification Fees the fees charged by the division incidental to the certification of documents.

Certified Electronic Technician qualified service personnel trained by a manufacturer, supplier, or other qualified entity, or through training programs approved by the division, who are capable of performing any repairs, parts replacements, maintenance, and other matters relating to servicing of devices.

Chip a nonmetal or partly metal representative of value, redeemable for cash, and issued and sold by a licensee for use at the licensee's gaming establishment.

Component any substantial or tangible part of a riverboat that must be built or made to complete construction of the riverboat or that must be modified for installation or use in or on the riverboat, including but not limited to engines, motors, boilers, generators, electrical systems and wiring, plumbing systems and apparatus, heating and cooling systems, custom-made furniture and fixtures. *Component* does not include *FF&E* as defined this Chapter.

Confidential Record any paper, document or other record or data reduced to a record which is not open to public inspection.

Day as used in these regulations shall mean a calendar day.

Designated Gaming Area those portions of a riverboat in which gaming activities may be conducted, which shall be determined by measuring the area (in square feet) inside the interior walls of the riverboats, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage area, and

emergency evacuation routes. Such designated gaming area shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser, and plans, therefore, shall be submitted to and approved by the board.

Designated Representative—A person designated by the licensee to oversee and assume responsibility for the operation of the licensee's gaming business.

Designated River or Waterway—those rivers or bodies of water listed in the act upon which gaming activities may be conducted.

Division Surveillance Room—a room or rooms on each riverboat for the exclusive use of division agents.

Dock or Docking—to lower the gangplank to a pier or shore or to anchor a riverboat at a pier or shore, or both.

Dock Side Facility—the place where docking occurs and where one or more berths may be located.

Drop

a. for table games, the total amount of money, chips, and tokens contained in the drop boxes.

b. for slot machines, the total amount of money and tokens removed from the drop box and the bill validator acceptor drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

Duplication Fees—a charge for duplicating documents for release to the requesting person.

Economic Interest or Interest—any interest in a licensee whereby a person receives or is entitled to directly receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit. Economic interest in a licensee includes voting shares of stock or otherwise exercising control of the day to day operations of the licensee through a management agreement or similar contract. Economic interest does not include a debt unless upon review of the contract the division determines the obligee of such security has an economic interest in the licensee.

Electronic Fund Transfer—any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Electronic Gaming Device—any mechanical or electrical device or machine which upon payment of consideration is available to play or operate, operation of which, whether by reason of the skill of the operator, or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive premiums, merchandise, tokens, redeemable game credits or anything of value other than unredeemable free games whether the payoff is made automatically from the machines or in any other manner.

Emergency Evacuation Route—those areas within the designated gaming area of a riverboat which are clearly defined and identified by the licensee as necessary and approved by the United States Coast Guard for the evacuation of passengers and crew from the riverboat, and from which and in which no gaming activity may be conducted.

Enforcement Action—any action undertaken by the division, to consider sanctions authorized by the act including the suspension, revocation or conditioning of a license or permit, or the assessment of a civil penalty upon the conclusion of an investigation into a violation of the act or of the rules adopted pursuant to the act, a violation of a condition, restriction or limitation placed on a license or permit, a violation of the licensee's rules of play, or a violation of the licensee's internal controls as approved by the division.

Excluded List—a list or lists which contain identities of persons who are excluded from any licensed gaming operation pursuant to the act.

Excluded Person—any person who has been placed on the list of excluded persons by the division and who has failed to timely request a hearing or who remains on the list after a final determination.

FF&E (Furniture, Fixtures and Equipment)—any part of a riverboat that may be installed or put into use as purchased from a manufacturer, supplier, or nongaming supplier, including but not limited to gaming devices, television cameras, television monitors, computer systems, computer programs, computers, computer printers, ready made furniture and fixtures, appliances, accessories, and all other similar kinds of equipment and furnishings.

Financial Statements—those statements and the information contained therein which relate to the assets, expenses, owner's equity, finances, earnings, or revenue of an applicant, licensee, permittee, registered company, or person who provides such records as part of an application or division investigation.

Fiscal Year—a period beginning July 1 and ending June 30 the following year.

Game Outcome—the final result of the wager.

Inspection—periodic surveillance and observation by the division of operations conducted by a licensee or permittee, which surveillance and observation may or may not be made known to the licensee or permittee.

Internal Control System—internal procedures and administration and accounting controls designed by the licensee and approved by the division, for the purpose of exercising control over the gaming operations.

Key Gaming Employee

a. any individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate gaming activities including, but not limited to, the general manager and assistant general manager of the riverboat, director of finance, accounting controller, director of cage and/or credit operations, director of casino operations, director of table games, director of slots, director of security, director of surveillance, director of management information systems, any employee who supervises the operations of these departments or to whom these individual department directors report, and such other positions which the Division or the Board shall later determine, based on detailed analysis of job descriptions as provided in the internal controls of the licensee as approved by the Division. All other gaming employees, unless determined otherwise by the Division or the Board, shall be classified as nonkey gaming employees.

b. In the case of vacation, leave of absence, illness, resignation, termination, or other planned or unplanned extended absence of a key employee, a non-key assistant director or manager of the above named individual departments may serve not more than 90 calendar days during any one calendar year as head of that department, after written request to and written approval of the Supervisor of the Division or the Chairman of the Board.

Louisiana Business, Louisiana Company or Louisiana Corporation—A business, company or corporation which is at least 51 percent owned by one or more Louisiana domiciliaries who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management of the business.

Manufacturer—Any person that manufactures, assembles, produces, or programs any gaming device for use or play in this state.

Minority Business Enterprise or Minority Owned Business—A business which is at least 51 percent owned by one or more minority individuals domiciled in Louisiana who also control and operate the business. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context, means being actively involved in the day-to-day management of the business.

Net Gaming Proceeds—the total of all cash and property (including checks whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out as winnings to patrons.

Nongaming Supplier or Supplier of Goods or Services Other Than Gaming Devices or Equipment—Any person who sells, leases or otherwise distributes, directly or indirectly, goods and/or services other than gaming devices and equipment to a licensee.

Operation—A licensed riverboat gaming operation or the operation of a manufacturer or supplier pursuant to the issuance of a permit or the operation of racehorse wagering pursuant to the issuance of a permit under the act.

Operator's License—A riverboat gaming operator's license.

Patron—An individual who is at least 21 years of age and who has lawfully placed a wager in an authorized game on a riverboat.

Payout—winnings earned on a wager.

Permittee—Any employee, agent, person, or entity who is issued or applying for a permit pursuant to the act. Permittee does not include an applicant in those particular sections or subsections where an applicant is treated differently than a permittee.

Premises—Land, together with all buildings, vessels, improvements, and personal property located thereon.

Public Record—Any paper, document, or other record required to be kept or necessary to be kept, in the discharge of a duty imposed by law, not declared confidential by statute or regulation.

Randomness—the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

Records—accounts, correspondence, memorandums, audio tapes, videotapes, computer tapes, computer disks, electronic media, papers, books, and other documents or

transcribed information of any type, whether expressed in ordinary or machine language.

Regulations—the riverboat gaming regulations promulgated pursuant to the act.

Renewal Applicant—A person who has filed any part of an application for renewal of any license or permit authorized by the act.

Renewal Application—All of the information, documents, forms, and materials required by the act and regulations to be filed with the division to renew any license or permit authorized by the act.

Riverboat—A vessel that carries a valid certificate of inspection issued by the United States Coast Guard with regard to the carriage of passengers on designated rivers or waterways within or contiguous to the boundaries of the state of Louisiana, carries a valid certificate of inspection from the United States Coast Guard for the carriage of a minimum of 600 passengers and crew, has a minimum length of 150 feet, is of such type and design so as to replicate as nearly as practicable historic Louisiana river borne steamboat passenger vessels of the 19th century era, and is paddlewheel driven. A riverboat as defined herein is not required to be steam propelled or maintain overnight facilities for its passengers.

Riverboat Operator—An owner and/or operator of a riverboat.

Route—the path of one or more riverboats moving continuously on designated rivers and waterways as permitted or authorized by the commission.

Sensitive Keys—All keys, including originals and duplicates, used in the process of accessing cash, chips, tokens, die and cards. Sensitive keys also include, but are not limited to drop box release and content keys, gaming device cabinet keys except slot machine access keys, and all keys used to access secure areas. Sensitive keys also include any keys so designated in the licensee's internal controls as approved by the division.

Statements on Auditing Standards—the auditing standards and procedures published by the American Institute of Certified Public Accountants.

Supplier of Gaming Devices and Equipment or Supplier—Any person that sells, leases, markets, offers, or otherwise distributes, directly or indirectly, any gaming devices or equipment for use or play in this state or sells, leases, or otherwise distributes any gaming devices or equipment.

Token—A metal representative of value, redeemable for cash, and issued and sold by a licensee for use in electronic gaming devices, table games or counter games at the licensee's gaming establishment.

Wager—A sum of money or thing of value risked on a game.

Win—the total of all cash and property (including checks received by a licensee, whether collected or not) received by the licensee from gaming operations, less the total of all cash paid out in winnings to patrons.

Women's Business Enterprise or Woman Owned Business—A business which is at least 51 percent owned by one or more women who are citizens of the United States domiciled in Louisiana and who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context means

being actively involved in the day-to-day management of the business. In determining whether a business is 51 percent owned by one or more women, the percentage ownership by a woman shall not be diminished because she is part of the community property regime.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 26:1317 (June 2000).

Chapter 21. Licenses and Permits

§2108. Nongaming Suppliers

A. Except as provided in Subsections E and F of this Section, any nongaming supplier shall obtain a nongaming supplier permit from the division, upon providing goods and/or services to a licensee in an amount in excess of \$50,000 during the preceding fiscal year period.

B. Any nongaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee may be requested to apply to the division for a finding of suitability.

C. Unless otherwise notified by the division in writing, a licensee shall conduct business with a nongaming supplier only if:

1. such supplier possesses a valid nongaming permit which has been placed in an approved status by the division; or

2. such supplier has been issued a waiver from the division regarding the necessity of obtaining a permit, pursuant to the provisions of Subsections E or F of this Section; or

3. during the immediate preceding fiscal year period, such supplier has received \$50,000 or less from the licensee as payment for providing nongaming services or goods to the licensee.

D. It shall be the responsibility of each licensee to ensure that it has not paid more than \$50,000 to any nongaming supplier during the preceding fiscal year period as payment for providing nongaming services or goods, unless such nongaming supplier holds a valid nongaming permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to subsections E or F of this Section.

E. The following nongaming suppliers shall be deemed to have been waived by the division from the necessity of obtaining a nongaming permit pursuant to this Section:

1. nonprofit charitable organizations, and educational institutions which receive funds from the licensee, including educational institutions that receive tuition reimbursement on behalf of employees of a licensee:

a. "nonprofit charitable organization" shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c), (3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code;

2. entities which provide one or more of the following services to a licensee and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; or
- e. local telephone services;

3. regulated insurance companies providing insurance to a licensee and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee for the cost of enrollment, activities, and membership;

6. all state, federal, and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, televisions stations and radio stations which contract with licensees to provide advertising services;

10. providers of professional services, including but not limited to accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities.

F. Any nongaming supplier required to obtain a nongaming permit, other than those listed in subsection E in this Section may request a waiver of the necessity of obtaining a nongaming permit. The division may grant such a request upon a showing of good cause by the nongaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the nongaming supplier.

G. Junket representatives shall be subject to the provisions of this Section in the same manner as other nongaming suppliers.

H. Each licensee shall submit to the division, on a quarterly basis, a report containing a list of all nongaming suppliers which have received \$5,000 or more from the licensee during the previous quarter, or \$50,000 or more during the preceding fiscal year period as payment for providing nongaming services or goods to the licensee. This report shall include the name and address of the nongaming supplier, a description of the type of goods or services provided, the nongaming suppliers nongaming permit number, if applicable, federal tax identification number, and the total amount of all payments made by the licensee, or any person acting on behalf of the licensee, to each nongaming supplier during the previous four quarters. For each nongaming supplier listed in this quarterly report which is a provider of professional services as defined in Paragraph E.10 of this Section, each licensee shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the licensee or any

person acting on behalf of the licensee during the previous quarter. This report shall be received by the board and the division not later than the last day of the month following the quarter being reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1318 (June 2000).

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

A. The division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. The proscriptive period is the amount of time determined by the division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the delay for requesting a hearing expires or the date of the final agency decision relative to such violation. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$100,000, the matter shall be forwarded to the board for further administrative action. In such case, the board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B. ...

C. The division may impose any sanction authorized by the act or these rules for violation of the licensee's internal controls as are approved by the division. For purposes of this section, the licensee's internal controls shall include:

1. accounting and financial controls including procedures to be utilized in counting, banking, storage and handling of cash;

2. procedures, forms, and where appropriate, formulas covering the calculation of hold percentages, revenue drop, expenses and overhead schedules, complimentary services, cash equivalent transactions, salary structure, and personnel practices;

3. job descriptions and the systems of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisor positions for areas of responsibility, which areas shall not be so extensive as to be impractical for and individual to monitor;

4. procedures within the cashier's cage for the receipt, storage, and disbursal of chips, cash, and other cash equivalents used in gaming, the payoff of jackpots, and the recording of transactions pertaining to gaming operations;

5. procedures for the collection and security of monies at the gaming tables;

6. procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;

7. procedures for the transfer of monies from the gaming tables to the counting process;

8. procedures for the counting and recordation of revenue;

9. procedures for the security, storage, and recordation of chips and other cash equivalents utilized in other gaming operations;

10. procedures for the transfer of monies or chips from and to the slot machines;

11. procedures and standards for the opening and security of slot machines;

12. procedures for the payment and recordation of slot machine jackpots;

13. procedures for the cashing and recordation of checks exchanged by patrons;

14. procedures governing the utilization of the private security force within the designated area;

15. procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels, and all other gaming equipment;

16. procedures and rules governing the conduct of particular games and the responsibilities of the riverboat gaming personnel in respect thereto; and

17. such other procedures, rules or standards that the division may impose on a licensee regarding its operations.

D. A sanction for purposes of this section includes, but is not limited to suspension, revocation, or cancellation of a license or permit, the imposition of a civil penalty and such other costs as the division deems appropriate, or other conditioning, limiting, or restricting of a license or permit.

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
Chapter 21. Licenses and Permits			
2101	General Authority of the Division	\$10,000	18
2108	Nongaming Suppliers	\$2,000	12
2110	Maritime Requirements	\$10,000	18
2116.A	Cash Transaction Reporting	\$5,000	12
2116.B	Cash Transaction Reporting (Violations in Other States)	\$20,000	24
2125	Access to Applicants' Premises and Records	\$25,000	60
2127.A	Information Constituting Grounds for Delay or Denial of an Application	\$10,000	24
2159.A	Gaming Employee Permits Required	\$10,000	18
2165	Display of Gaming Employee Permit	\$500	12
Chapter 23. Compliance, Inspections, and Investigations			
2325	Imposition of Sanctions	\$2,500	12
Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions			
2521	Loans and Lines of Credit	\$75,000	60
Chapter 27. Accounting Regulation			
2701	Procedures for Reporting and Paying Gaming Taxes and Fees		
	Late Reports	\$2,000	12

	Late Wire Transfers	\$5,000	12
2703.A	Accounting Records (per issue)	\$2,000	12
2705	Records of Ownership	\$500	12
2707	Records Retention	\$10,000	18
2709.B	Quarterly Financial Statements	\$1,000	12
2709.C	SEC Reports	\$500	12
2711.B	Required Signatures	\$500	12
2711.D	Change of CPA Requirements	\$10,000	60
2711.F	Audited Financial Statements (submission date)	\$10,000	60
2711.G	Change of Business Year	\$2,000	60
2711.H	Other CPA Reports	\$2,000	60
2711.I	Quarterly Net Win Reports	\$5,000	24
2711.J	Additional CPA Information	\$10,000	60
2713.D	Submit Monthly Calculation to Division	\$5,000	12
2713.E	Submission of Revised Calculated Amount	\$5,000	12
2715.A.1-7, 13	General Requirements	\$2,500	12
2715.A.8-12	Key Control & Entry Logs	\$10,000	24
2715.D	Internal Audit Department – Failure to Investigate and Resolve Material Exceptions & to Document Results	\$10,000	18
2715.E	Late Submission	\$10,000	60
2715.F-G	Amendment of Computerized Controls *and Amendments to Internal Controls	\$25,000	24
2715.H	Amendments to Internal Controls required by the Division	\$20,000	24
2715.J-M	General Credit Requirements	\$5,000	18
2715.O	Quarterly Credit Report	\$5,000	18
2715.Q	Value of Tokens	\$5,000	12
2716	Clothing Requirements	\$5,000	12
2717	Internal Controls, Table Games		
2717.A-E	Fills and Credits	\$2,000	12
2717.F	Table Inventory	\$5,000	12
2717.G	Credit Procedures in Pit	\$2,000	12
2717.H	Non-Marker Credit Play	\$5,000	12
2717.I	Call Bets	\$10,000	18
2717.J	Table Games Drop Procedures	\$10,000	24
2717.K	Table Games Count Procedures	\$10,000	24
2717.L	Table Games Key Control Procedures	\$10,000	24
2717.M		\$5,000	12
2717.N	Supervisory Controls of Table Games	\$2,500	12
2717.O	Table Games Records	\$2,500	12
2717.P	Accounting and MIS Functions	\$2,500	12
2719 A & B	Handling of Cash at Gaming Tables	\$5,000	18
2721	Tips and Gratuities		
	Licensee Violation	\$2,000	12
	Permittee Violation	\$500	12
2723	Internal Controls, Slots		
2723.B & C	Jackpot Request	\$2,000	12
2723.D	Jackpot Payout Slip	\$2,000	12
2723.E	Jackpot Payout Slips greater than \$1,200	\$1,000	12
2723.F	Jackpot Payout Slips greater than \$5,000	\$5,000	12
2723.G	Jackpot Payout Slips greater than \$10,000	\$10,000	18
2723.H	Jackpot Payout Slips greater than \$100,000	\$15,000	24
2723.I	Slot Fill Slips	\$2,000	12
2723.J	Slot Hard Drop	\$10,000	12

2723.K	Slot Count	\$10,000	12
2723.L	Hard Count Weigh Scale		12
2723.M	Accurate and Current Records for each slot machine	\$5,000	12
2723.N	Slot Machines removed from gaming floor	\$10,000	18
2723.O	Key Control,& Entry Logs	\$10,000	24
2723.P	Sensitive Keys removed from vessel	\$10,000	24
2723.Q	Currency Acceptor Drop and Count Standards	\$10,000	24
2723.R	Computer Records	\$5,000	12
2723.S	Management Information Systems (MIS) Functions	\$5,000	18
2723.T	Accounting Department audit procedures relative to slot operations	\$10,000	24
2723.U	Slot Department Requirements	\$2,000	12
2723.V	Progressive Slot Machines	\$5,000	12
2723.W	Training	\$5,000	24
2725.A- F	Poker	\$2,500	12
2727	Race Book	\$5,000	12
2729	Cage and Credit		
2729.A-H	Cage Procedures	\$5,000	12
2729.I-HH	Credit Extension/Check Cashing	\$5,000	12
2729.II-NN	Other Credit Issues	\$5,000	12
2730	Exchange of Chips and Tokens	\$1,000	12
2731	Currency Transaction Reporting	\$5,000	12
2735	Net Gaming Proceeds Computation	\$5,000	12
2736	Treatment of Credit for Computing Net Gaming Proceeds	\$5,000	12
Chapter 29. Operating Standards			
2901	Methods of Operation Generally	\$10,000	24
2911	Accessibility to Premises; Parking	\$1,000	12
2913	Access to Premises and Production of Records	\$10,000	24
2915	Methods to Prevent Minors from Gaming Area	\$10,000	12
2919	Finder's Fees	\$10,000	12
2921.A	Agencies who may Collect	\$10,000	60
2921.B	Collection by Unsuitable Person	\$10,000	60
2921.C	Recordation of Collection Arrangements; Division Inspection	\$10,000	60
2933	Compulsive/Problem Gamblers - Telephone Info and Referral Service Posting (see Title 27:58.10)	\$1,000	24
2935	Entertainment Activities	\$5,000	12
2943	Gaming Employees Prohibited from Gaming	\$2,500	12
2945	Restrictive Areas	\$10,000	24
2953	Promotions and Tournaments	\$5,000	12
Chapter 31. Rules of Play, All rule violations other than 3101 and 3105			
3101	Authority and Applicability, Unauthorized Game	\$25,000	24
3105	Submission of Rules	\$25,000	24
Chapter 33. Surveillance and Security			
3301	Required Surveillance Equipment	\$10,000	24
3303	Surveillance System Plans	\$25,000	24
3305.A	Division Room	\$10,000	24

3305.B	Access to Surveillance Equipment	\$10,000	24
3305.C	Surveillance Employees Prohibited from Other Gaming Duties	\$5,000	24
3305.D&E	Security of Division and Surveillance Rooms	\$10,000	24
3305.F	Division Agents Access to Surveillance Room	\$15,000	24
3305.H	Licensee Surveillance	\$5,000	24
3307	Segregated Telephone Communication	\$5,000	24
3309.A	Maintaining Logs	\$10,000	24
3309.B	Logging of Unusual Occurrences	\$10,000	24
3311	Storage and Retrieval	\$20,000	24
3313	Dock Side Division Facility	\$10,000	24
3315	Maintenance and Testing	\$20,000	24
3317	Surveillance System Compliance	\$25,000	24
Chapter 35. Patron Disputes			
3501	Division Notification	\$1,000	12
Chapter 37. List of Excluded Persons			
3705	Duty of Licensees and Permittees to Exclude	\$5,000	12
Chapter 41. Enforcement Actions			
4103	Chairman Action By Order	\$20,000	18
Chapter 43. Specifications for Gaming Devices and Equipment			
4301	Approval of Chips and Tokens; Applications and Procedures	\$5,000	12
4309	Use of Chips and Tokens	\$1,000	12
4311	Receipt of Gaming Chips or Tokens from Manufacturer or Supplier	\$5,000	12
4313	Inventory of Chips	\$5,000	12
4315	Redemption and Disposal of Discontinued Chips and Tokens	\$5,000	12
4319	Approval and Specifications for Dice	\$5,000	12
4321	Dice; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4325	Cards; Receipt, Storage, Inspections and Removal From Use	\$5,000	12
4327	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4331.B&C	Display	\$2,000	12
4331.D	Amount Reduction	\$5,000	12
4333	Computer Monitoring Requirements of Electronic Gaming Devices	\$10,000	12
4339	Certification by Manufacturer	\$1,000	12
4343	Duplication of Program Storage Media	\$20,000	24
4345	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4347	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4349	Maintenance of Gaming Devices	\$20,000	24
4355	Approval of Associated Equipment; Application and Procedures	\$5,000	12

Title 27. Louisiana Gaming Control Law			
Chapter 4. The Louisiana Riverboat Economic Development and Gaming Control Act			
Part I. General Provisions			
27:47	License or permit required	\$10,000	60
Part III. Gaming Enforcement Division			
27:61(1)	Net gaming procedures	\$2,000	12
27:61(2)	Tax paid	\$2,000	12
27:61(3)	Quarterly financial statements	\$1,000	12
27:61(3)	Annual financial statements	\$10,000	60
Part V. Conducting of Gaming Operations			
27:65B(1)	Sailing requirements	\$5,000	12
27:65B(2)	Sailing duration	\$5,000	12
27:65B(3)	Division agents may inspect anytime	\$25,000	60
27:65B(4)	Gaming equipment must be from permitted suppliers	\$25,000	
27:65B(5)	Wagering restrictions	\$10,000	18
27:65B(7)	Gaming equipment storage	\$25,000	60
27:65B(9)	No one under 21 allowed	\$10,000	12
27:65B(11)	Wagering only with chips, tokens, etc.	\$10,000	18
27:65B(13)	Adequate insurance	\$25,000	60
27:65B(15)	Must obey all rules	\$10,000	18
Part VII. Application and Licensing			
Part VIII. Issuance of Permits to Manufacturers, Suppliers, and Others			
27:82C	Distribution of unapproved devices/supplies	\$25,000	60
27:82E	Supplier requirements	\$5,000	12
27:84	Gaming employee permits	\$10,000	18
27:85A	Unpermitted employee	\$10,000	18
27:85B	Underage patron/employees	\$10,000	12
27:86	Issuance of permit to conduct racehorse wagering	\$5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 26.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended by the Gaming Control Board, LR 26:1319 (June 2000).

Hillary J. Crain
Chairman

0006#003

RULE

**Office of Public Safety
Gaming Control Board**

Gaming Establishments (LAC 42:XI.2415)

The Gaming Control Board hereby adopts amendments to LAC 42:XI.2415.

Title 42

LOUISIANA GAMING

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2415. Gaming Establishments

A. - C.3. ...

D. Structural requirements for licensed establishments

1. - 3. ...

4. Each qualified stop facility licensed after having filed a new application on or after July 1, 2000 shall comply with the following requirements.

a. Each new application shall contain a scale drawing of the qualified truck stop facility prepared by a registered civil engineer which indicates the overall dimension of the facility and parking area and upon which is superimposed the areas and dimensions for 50 parking stalls measuring 12 feet wide and 65 feet long and for travel lanes measuring 50 feet wide at those facilities with two-way truck travel. At those facilities having one-way truck travel, the travel lane shall be 30 feet wide.

b. The parking area design, plans and construction shall be in compliance with all applicable federal, state, and local laws and regulations and in compliance with the most appropriate and applicable national or regional association or industry design and construction guidelines applicable to the geographical area in which the qualified truck stop facility is proposed to be located as reasonably determined by the registered civil engineer.

c. The parking area shall be constructed of asphalt or concrete in accordance with a design and plans prepared by a registered civil engineer. The travel lanes shall be constructed in accordance with a design and plans prepared by a registered civil engineer.

d. The licensee or applicant shall submit to the division written certification from the registered civil engineer that construction was in accordance with the design and construction plans and these rules.

5. The licensee has a continued responsibility to maintain the parking area and travel lanes in accordance with the Act and these rules. The licensee shall upon request provide to the division applicable documentation supporting the design and construction of the parking area in accordance with the Act and these rules.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with L.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), amended LR 24:1504 (August 1998), LR 26:1322 (June 2000).

Hillary J. Crain
Chairman

0006#004

RULE

**Office of Public Safety and Corrections
Gaming Control Board**

Imposition of Sanctions (LAC 42:VII.2325)

The Gaming Control Board hereby adopts LAC 42:VII.2325.

Title 42

LOUISIANA GAMING

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

A. The division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. The proscriptive period is the amount of time determined by the division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the delay for requesting a hearing expires or the date of the final agency decision relative to such violation. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$100,000, the matter shall be forwarded to the Board for further administrative action. In such case, the board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B. The division may impose any sanction authorized by the act or these rules for violation of any condition, restriction, or limitation imposed on a license or permit by either the division or board.

C. The division may impose any sanction authorized by the act or these rules for violation of the licensee's internal controls as are approved by the division. For purposes of this section, the licensee's internal controls shall include:

1. accounting and financial controls including procedures to be utilized in counting, banking, storage and handling of cash;

2. procedures, forms and where appropriate, formulas covering the calculation of hold percentages, revenue drop, expenses and overhead schedules, complimentary services, cash equivalent transactions, salary structure, and personnel practices;

3. job descriptions and the systems of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and

identifying primary and secondary supervisor positions for areas of responsibility, which areas shall not be so extensive as to be impractical for and individual to monitor;

4. procedures within the cashier's cage for the receipt, storage, and disbursement of cash, and other cash equivalents used in gaming, the payoff of jackpots, and the recording of transactions pertaining to gaming operations;

5. procedures for the counting and recordation of revenue;

6. procedures for the security, storage, and recordation of cash equivalents utilized in other gaming operations;

7. procedures for the transfers of monies or cash equivalents from and to the slot machines;

8. procedures and standards for the opening and security of slot machines;

9. procedures for the payment and recordation of slot machine jackpots;

10. procedures for the cashing and recordation of checks exchanged by patrons;

11. procedures governing the utilization of the private security force within the designated area;

12. procedures and security standards for the handling and storage of gaming devices, machines and all other gaming equipment;

13. procedures and rules governing the conduct of particular games and the responsibilities of the gaming personnel in respect thereto;

14. such other procedures, rules or standards that the division may impose on a licensee regarding its operations.

D. Sanction for purposes of this section includes, but is not limited to suspension, revocation, or cancellation of a license or permit, the imposition of a civil penalty and such other costs as the division deems appropriate, or other conditioning, limiting, or restricting of a license or permit.

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)
Chapter 21. Licenses and Permits			
2101	General Authority of the Board and Division	\$10,000	18
2108	Nongaming Suppliers	\$2,000	12
2110	Plans and Specifications	\$10,000	18
2116.A	Cash Transaction Reporting	\$5,000	12
2116.B	Cash Transaction Reporting (Violations in other states)	\$20,000	24
2125	Access to Applicants' Premises and Records	\$25,000	60
2127.A	Information Constituting Grounds for Delay or Denial of an Application	\$10,000	24
2159.A	Gaming Employee Permits Required	\$10,000	18
2165	Display of Gaming Employee Identification Badge	\$500	12
Chapter 23. Compliance, Inspections and Investigations			

2325	Imposition of Sanctions	\$2,500	12
Chapter 25. Transfers of Interest in Licenses and Permittees; Loans and Restrictions			
2521	Loans and Lines of Credit	\$75,000	60
Chapter 27. Accounting Regulation			
2701	Procedures for Reporting and Paying Taxes and Fees		
2701	Late Reports	\$2,000	12
2701	Late Wire Transfers	\$5,000	12
2703.A	Accounting Records (per issue)	\$2,000	12
2705	Records of Ownership	\$500	12
2707	Records Retention	\$10,000	18
2709.B	Quarterly Financial Statements	\$1,000	12
2709.C	SEC Reports	\$500	12
2711.B	Required Signatures	\$500	12
2711.D	Change of CPA Requirements	\$10,000	60
2711.F	Audited Financial Statements (submission date)	\$10,000	60
2711.G	Change of Business Year	\$2,000	60
2711.H	Other CPA Reports	\$2,000	60
2711.I	Quarterly Net Win Reports	\$5,000	24
2711.J	Additional CPA Information	\$10,000	60
2713.D	Submission of Monthly Calculations	\$5,000	12
2713.E	Submission of Revised Calculated Amount	\$5,000	12
2715.A.1-7, 13	General Requirements	\$2,500	12
2715.A.8-12	Key Control & Entry Logs	\$10,000	24
2715.D	Internal Audit Department – Failure to Maintain Department or Develop Quarterly Report	\$10,000	18
2715.E	Late Submission	\$10,000	60
2715.F	Amendment of Computerized Controls and Amendment to Internal Controls	\$25,000	24
2715.H	Amendments to Internal Controls required by the Division	\$20,000	24
2715.J-M	General Credit Requirements	\$5,000	18
2715.O	Quarterly Credit Report	\$5,000	18
2715.P	Quarterly Vendor Report	\$5,000	18
2715.Q	Value of Tokens	\$5,000	12
2716	Clothing Requirements	\$5,000	12
2719.A	Handling of Cash	\$5,000	18
2721	Tips and Gratuities		
	Licensee Violation	\$2,000	12
2723	Internal Controls, Slots		
2723.B-C	Jackpot Request	\$2,000	12

2723.D	Jackpot Payout Slip	\$2,000	12
2723.E	Jackpot Payout Slips greater than \$1,200	\$1,000	12
2723.F	Jackpot Payout Slips greater than \$5,000	\$5,000	12
2723.G	Jackpot Payout Slips greater than \$10,000	\$10,000	18
2723.H	Jackpot Payout Slips greater than \$100,000	\$15,000	24
2723.I	Slot Fill Slips	\$2,000	12
2723.J	Slot Hard Drop	\$10,000	12
2723.K	Slot Count	\$10,000	12
2723.L	Hard Count Weigh Scale	\$10,000	12
2723.M	Accurate and Current Records for each slot machine	\$5,000	12
2723.N	Slot Machines removed from gaming floor	\$10,000	18
2723.O	Key Control & Entry Logs	\$10,000	24
2723.P	Sensitive Keys removed from Facility	\$10,000	24
2723.Q	Currency Acceptor Drop and Count Standards	\$10,000	24
2723.R	Computer Records	\$5,000	12
2723.S	Management Information Systems (MIS) Functions	\$5,000	18
2723.T	Accounting Department Audit Procedures	\$10,000	24
2723.U	Slot Department Requirements	\$2,000	12
2723.V	Progressive Slot Machines	\$5,000	12
2723.W	Training	\$5,000	24
2729	Cage and Credit		
2729.A-H	Cage Procedures	\$5,000	12
2729.I-HH	Credit Extension/Check Cashing	\$5,000	12
2729.II-NN	Other Credit Issues	\$5,000	12
2730	Exchange of Chips and Tokens	\$1,000	12
2731	Currency Transaction Reporting	\$5,000	12
2735	Net Slot Machine Proceeds Computation	\$5,000	12
Chapter 29. Operating Standards			
2901	Methods of Operation Generally	\$10,000	24
2911	Accessibility to Premises; Parking	\$1000	12
2913	Access to Premises and Production of Records	\$10,000	24
2915	Methods to Prevent Minors from Gaming Area	\$10,000	12
2919	Finder's Fees	\$10,000	12
2921.A	Agencies who may Collect	\$10,000	60
2921.B	Collection by Unsuitable	\$10,000	60

	Person		
2921.C	Recordation of Collection Arrangements; Division Inspection	\$10,000	60
2933	Compulsive/Problem Gamblers – Telephone Info and Referral Service Posting	\$1000	24
2935	Entertainment Activities	\$5,000	12
2943	Gaming Employees Prohibited from Gaming	\$2,500	12
2945	Restrictive Areas	\$10,000	24
2953	Promotions and Tournaments	\$5,000	12
Chapter 33. Surveillance and Security			
3301	Required Surveillance Equipment	\$10,000	24
3303	Surveillance and Security System Plans	\$25,000	24
3305.A	Division Room	\$10,000	24
3305.B	Access to Surveillance Equipment	\$10,000	24
3305.C	Surveillance Employees Prohibited from Other Gaming Duties	\$5,000	24
3305.D-E	Security of Division and Surveillance Rooms	\$10,000	24
3305.F	Division Agents Access to Surveillance Room	\$15,000	24
3305.H	Licensee Surveillance	\$5,000	24
3307	Segregated Telephone Communication	\$5,000	24
3309.A	Maintaining Logs	\$10,000	24
3309.B	Logging of Unusual Occurrences	\$10,000	24
3311	Storage and Retrieval	\$20,000	24
3315	Maintenance and Testing	\$20,000	24
3317	Surveillance System Compliance	\$25,000	24
Chapter 35. Patron Disputes			
3501	Division Notification	\$1,000	12
Chapter 37. List of Excluded Persons			
3705	Duty of Licensees and Permittees to Exclude	\$5,000	12
Chapter 41. Enforcement Actions			
4103	Chairman Action By Order	\$20,000	18
Chapter 42. Electronic Gaming Devices			
4202	Approval of Gaming Devices; Applications and Procedures; Manufacturers and Suppliers	\$10,000	12
4204	Progressive EGD's	\$5,000	12
4205	Computer Monitoring	\$10,000	12

	Requirements of Electronic Gaming Devices		
4208	Certification by Manufacturer	\$1,000	12
4211	Duplication of Program Storage Media	\$20,000	24
4212	Marking, Registration, and Distribution of Gaming Devices	\$5,000	12
4213	Approval to Sell or Dispose of Gaming Devices	\$10,000	24
4214	Maintenance of Gaming Devices	\$20,000	24
4219	Approval of Associated Equipment; Application and Procedures	\$5,000	12
Chapter 43. Specification for Gaming Devices and Equipment			
4301	Approval of Chips and Tokens; Applications and Procedures	\$5,000	12
4309	Use of Chips and Tokens	\$1,000	12
4311	Receipt of Gaming Chips or Tokens from Manufacturer or Supplier	\$5,000	12
4313	Inventory of Chips	\$5,000	12
4315	Redemption and Disposal of Discontinued Chips and Tokens	\$5,000	12
4317	Destruction of Counterfeit Chips and Tokens	\$5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1325 (June 2000).

Hillary J. Crain
Chairman

0006#002

RULE

Department of Public Safety and Corrections Office of the State Fire Marshal

Fire Extinguishers and Fire Alarms (LAC 55:V.Chapter 30)

In accordance with the provisions of R.S. 49:950, et seq. and R.S. 40:1484.3, relative to the authority of the State Fire Marshal to promulgate and enforce rules, relative to the regulation of Portable Fire Extinguishers, Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems and/or Equipment, the Office of the State Fire Marshal amends the following rules.

TITLE 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 30: Portable Fire Extinguisher, Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems and/or Equipment Rules

§3001. Purpose

A. The purpose of these rules is to regulate the activity of certifying, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler equipment and/or systems in the interest of protecting and preserving lives and property pursuant to authority of R.S. 40:1625, et seq. and R.S. 40:1651 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1325 (June 2000).

§3003. Applicability of Rules

A. These rules shall apply to all businesses and persons engaged in the activity of certifying, inspecting, installing, maintaining and servicing of portable fire extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems and/or hydrostatic testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1325 (June 2000).

§3005. Exceptions

A. These rules shall not apply to businesses and/or persons engaging in the activity of planning, certifying, inspecting, installing or servicing fire detection and alarm equipment and/or systems in one or two family dwellings which is governed by R.S. 40:1662.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1325 (June 2000).

§3007. Notices by the Fire Marshal

A. Any notice required to be given by the State Fire Marshal by any provision of R.S. 40:1625, et seq. or R.S. 40:1651, et seq. or these rules must be given by personal service or mailed, postage prepaid, to the person's residence or business address as it appears on the records in the Office of State Fire Marshal. It is the responsibility of the person or business involved to assure that the Office of the State Fire Marshal has a correct address for the person or business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1325 (June 2000).

§3009. Certificate, License, Permit Required

A. Each firm engaged in the activity of certifying, inspecting, installing, inspecting, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a certificate of registration in the class(es) of certification desired in accordance with LAC 55:V.3015 prior to conducting any such activity in this state.

B. Each business engaged in the activity of planning, certifying, inspecting, installing, or servicing fire protection sprinkler systems shall employ a qualifying person or certificate holder and obtain a permit for such in accordance with R.S. 40:1625, et seq. prior to conducting any such activity in this state.

C. Each person or employee, except apprentices, engaged in the activity of inspecting, installing, servicing portable fire extinguishers or planning, certifying, inspecting, installing or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a license in the class and/or classes of licensure desired in accordance with LAC 55:V.3017 prior to conducting any such activity in this state.

D. Each apprentice, as defined in LAC 55:V.3013, engaged in the activity of inspecting, installing, maintaining or servicing portable fire extinguishers or inspecting, installing, maintaining or servicing fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems shall apply for a permit in accordance with LAC 55:V.3019 prior to conducting any such activity in this state.

E. Any business(es) and/or person(s) described in A, B, C and D of this section, which have not applied for and received a current and valid certificate of registration, license or permit shall immediately cease such activities. The Office of State Fire Marshal may take all steps necessary to enforce an order to cease and desist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1326 (June 2000).

§3011. Qualifying Persons

A. Each certified business or each business seeking certification, other than portable fire extinguisher and pre-engineered fixed fire extinguishing system firms, shall employ at least one qualifying person. No systems shall be planned, installed or submitted to this office for review if the business does not employ a qualifying person as provided herein.

B. The qualifying person shall be a paid employee and shall only qualify the one business for which he is employed. A contract employee cannot be used to fulfill this requirement except as provided by Subsection G below.

C. The qualifying person shall be primarily and regularly engaged in the planning, and the supervision of the installation and servicing of fixed fire extinguishing, fire detection and alarm, and/or fire protection sprinkler equipment and/or systems.

D. If the qualifying person is a professional engineer currently registered with the LA Board of Professional

Engineers, the following endorsements shall be required for each discipline:

1.a. Fire Protection Sprinkler Systems C Mechanical Engineer

b. Engineered Fixed Fire Extinguishing Systems C Mechanical Engineer

c. Fire Detection and Alarm Systems C Electrical Engineer

2. A Fire Protection Engineer may substitute for any of the above if documented to be in the appropriate discipline.

E. At anytime that a business finds itself without a qualifying person, such businesses shall only be able to continue certifying, inspecting and/or servicing existing contractual obligations but shall not be engage in any new work involving the planning, certifying, inspecting, installing or servicing of fixed fire extinguishing equipment and/or systems, or fire detection and alarm equipment and/or systems, or fire protection sprinkler equipment and/or systems until a qualifying person has been employed as provided herein.

F. This office shall be notified in writing within ten working days anytime a qualifying person's employment is terminated for any reason.

G. A business who loses its qualifying person and has timely notified the Office of the State Fire Marshal shall have 45 days to hire another qualifying person. If after the loss of such an employee, a replacement cannot be found, within the 45 the firm may make a request to the Office of the State Fire Marshal to temporarily hire a qualifying person on a contractual basis. Good cause must be shown why another employee cannot be permanently hired. Approval by the Office of the State Fire Marshal for the hiring of a qualifying person on a contractual basis shall not exceed six months. Not later than 30 days prior to the expiration of the six month period, the business can request an additional six month period to employ a qualifying person on a contractual basis. The Office of the State Fire Marshal may grant one additional six month period during which a business may employ a qualifying person on a contractual basis.

H. Failure to notify this office in writing within ten working days of the loss of a qualifying person will cause forfeiture of any extension of time to hire another qualifying person.

I. A qualifying person must obtain an individual employee license or permit as required by these rules. The examination requirement for licensure or permitting will be waived for these employees. If a firm desires to use multiple qualifiers for submitting plans and supervising installations or service, then it must register and license the additional qualifiers with the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1326 (June 2000).

§3013. Definitions

A. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

Activity C the leasing, renting, selling, inspecting, installing, maintaining and servicing of portable fire

extinguishers and the planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing equipment and/or systems or fire detection and alarm equipment and/or systems or fire protection sprinkler systems pursuant to R.S. 40:1625, et seq. and R.S. 40:1651, et seq.

Apprentice Ca person to whom a permit has been issued pursuant to R.S. 40:1651, et seq., to perform various acts of inspection, installation, maintenance or service while under the direct supervision of and accompanied by an employee of the same certified firm, and licensed under the same statutes to perform such acts.

Branch Office Ca location other than firm's main office, from which the acts authorized by the certificate of registration are performed.

Business Cfor the purpose of these rules the term business shall mean "firm" as used in R.S. 40:1651, et seq. And "fire protection sprinkler contractor" as used in R.S. 40:1625, et seq.

Certificate of Registration Cthat document issued by the State Fire Marshal to a person, firm, corporation, or association authorizing same to engage in such activities as defined in LAC 55:V.3015.B.

Certify Cto attest to the proper charging, or filling, or functionality, or inspection, or installation, or maintenance, or recharging, or refilling, or repair, or service, or testing of portable fire extinguishers, fixed fire extinguishing systems, fire detection and alarm systems and/or fire protection sprinkler systems in accordance with all applicable engineered specifications, manufacturer's specifications and per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards.

Class A Certificate of Registration Cthat document issued by the State Fire Marshal that authorizes a firm to engage in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers and hydrostatic testing not required by the U.S. Department of Transportation (U.S. DOT). Please note: Hydrostatic testing required by the U.S. DOT requires a Class E Certificate defined in "I" below.

Class B Certificate of Registration Cthat document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining or servicing pre-engineered fixed fire extinguishing systems and those activities specifically authorized by a Class "B-1" Certificate.

Class B1 Certificate of Registration Cthat document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining or servicing pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

Class C Certificate of Registration Cthat document issued by the State Fire Marshal that authorizes a firm to engage in the planning, certifying inspecting, installing, maintaining and servicing of engineered or pre-engineered fixed fire extinguishing systems.

Class D Certificate of Registration Cthat document issued by the State Fire Marshal that authorizes a firm to engage in the planning, certifying, inspecting, installing, maintaining and servicing of fire detection and alarm

systems and those activities specifically authorized by a Class "D-1" certificate.

Class D-1 Certificate of Registration Cthat document issued by the State Fire Marshal that authorizes a firm to engage in the activity of planning, certifying, inspecting, installing, maintaining and servicing of fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire alarm and detection system.

Class D-2 Certificate of Registration Cthat document issued by the State Fire Marshal that authorizes an owner of a fire alarm system to perform routine inspection, and minor service and repairs of fire detection and alarm systems within the owner's own facilities only. No planning, installing or certifying of these systems is permitted. Minor service and repair is defined as repair/replacement of single initiating and/or annunciating devices with identical new devices. Routine inspection is defined as visual inspections and monthly drill tests.

Class E Certificate of Registration Cthat document issued by the State Fire Marshal that authorizes a firm to engage in hydrostatic testing of fire extinguishers manufactured in accordance with the specification and procedure of the United States Department of Transportation.

Contact Person Cthat individual designated by a business to act as liaison with the Office of the State Fire Marshal.

Department of Transportation (DOT) Cylinder Call fire extinguisher cylinders manufactured and tested in compliance with specifications and requirements of the United States Department of Transportation. Please note: DOT regulations place 21 Cyear age restriction on drivers who transport certain DOT regulated cylinders.

Employee Cone who works for a "firm" as defined by R.S. 40:1652(1) in return for financial or other compensation. However, the term shall include the following.

a. For the purposes of the licensing requirements, contained in R.S. 40:1653(C)(1) employees shall not include secretaries, drivers, accounting personnel, or persons who sell portable fire extinguishers or single station smoke/fire detectors.

b. For the purposes of licensing requirements, the firm owner or owners shall be considered "employees" if he or she is or will be physically certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing systems and/or equipment or in planning, certifying, inspecting, installing, maintaining or servicing fire detection and alarm systems and/or equipment or doing hydrostatic testing.

Engineered Systems Cspecial systems individually designed or altered in accordance with nationally recognized fire protection system design standards and manufacturer's guidelines

Fire Protection Equipment/Systems Cas governed by R.S. 40:1651, et seq., includes any equipment/system relating to portable fire extinguishers, fixed fire extinguishing systems (pre-engineered or engineered) and/or fire detection and alarm systems.

Fire Protection Sprinkler Systems—As defined in R.S. 40:1625(5), including but not limited to water sprinkler systems, standpipes, and hose stations, and shall include the provisions of NFPA 13, 13D, 13R, 14, 20 and 25.

Hydrostatic Testing—pressure testing cylinders by approved hydrostatic methods and in accordance with NFPA codes and the U.S. Department of Transportation.

Inspection—the act of visually checking the physical condition and placement of portable fire extinguishers, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems and/or certifying the same for functional performance of equipment/system in accordance with all applicable engineered specifications, manufacturer's specifications and per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards.

Installation—the initial placement of a portable fire extinguisher, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems or an extension, or alteration after initial placement.

License—that document issued by the State Fire Marshal to an employee of a certified firm authorizing the employee to engage in the activities as defined by LAC 55:V.3017 and 3025.

Maintenance—repair service, including periodically recurrent inspections and tests, required to keep fire protection equipment/systems and fire protection sprinkler systems and their components in an operable condition at all times, together with replacement of the equipment/system or of its components, when for any reason they become undependable or inoperable.

Nationally Recognized Testing Laboratory—Ca nationally recognized testing company concerned with product and service evaluation, which, after conducting successful examinations, inspections, tests and reexaminations, reflects approval by various labeling, listing and classification actions.

NFPA—the National Fire Protection Association, Inc., a nationally recognized standards-making organization.

Non-Conforming—Ca system or component of a system which does not comply with applicable NFPA codes or standards.

Non-Required—Ca system or component of a system which is not required by the applicable occupancy chapter of NFPA 101 (Life Safety Code).

Office—Office of State Fire Marshal.

Permit—those documents issued by the State Fire Marshal pursuant to R.S. 40:1625, et seq. or R.S. 40:1651, et seq.

Person—Ca natural individual, including any owner, manager, officer, or employee of any business.

Pocket License or Permit—that document issued by the State Fire Marshal to an employee of a certified firm, in pocket size and bearing a photographic image of the licensee or permittee, authorizing the employee to engage in the activities as defined by LAC 55:V.3017, 3019, 3025 and 3027.

Pre-Engineered Systems—Cpackaged systems which consist of system components designed to be installed according to pretested limitations as approved or listed by a

testing laboratory. Pre-engineered systems may incorporate special nozzles, flow rates, methods of application, nozzle placement and pressurization levels, which may differ from those detailed elsewhere in NFPA. Pre-engineered systems shall be installed to protect hazards within the limitations that have been established by the testing laboratories where listed.

Portable Fire Extinguisher—Ca portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire and shall include semi-portable fire extinguishers.

Qualifying Person—the employee of a business who is certified by the National Institute for the Certification of Engineering Technologies (NICET) Level III or has passed the written examination required to be certified at the NICET Level III in Fire Protection in the appropriate discipline or a professional engineering currently registered with the Louisiana Board of Professional Engineers with the appropriate endorsement as provided by §3011 D.

Recharge—the replacement of the extinguishing agent, the expellant or both.

Semi-Portable—any portable fire extinguisher mounted on skids or wheels.

Service—the act of repair or replacement of fire protection equipment/systems or fire protection sprinkler systems or their components to ensure the proper functioning of the equipment/system.

Shop—Ca facility of a certified business where designing, certifying, inspecting, maintaining, pre-assembling, servicing, repairing or hydrostatic testing is performed and where parts and equipment are maintained.

Trainee—Ca person who is licensed to work under the direct supervision and accompaniment of a technician who is licensed to the same firm and holding a valid license to perform the same acts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1328 (June 2000).

§3015. Permits and Certificates of Registration

A. Any individual, partnership, corporation, association or joint venture must obtain from the State Fire Marshal a permit as provided for by R.S. 40:1625, et seq. before engaging in the installation, repair, alteration, addition, maintenance or inspection of fire protection sprinkler systems.

1. Each fire protection sprinkler contractor, as defined by R.S. 40:1624(4)(a) shall have at least one qualifying person or certificate holder.

2. Fire protection sprinkler contractors as defined by R.S. 40:1624(4)(a) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the state fire marshal.

B. Any person, partnership, corporation or association must obtain from the State Fire Marshal a certification of registration as provided for by R.S. 40:1651, et seq. before engaging in the activity of certifying, inspecting, installing, maintaining or servicing portable fire extinguishers or planning, certifying, inspecting, installing, maintaining or servicing fixed fire extinguishing systems or fire detection and alarm systems.

1. Each firm, as defined by R.S. 40:1652(1), shall have at least one licensed technician per class of certification to perform the act or acts authorized by its certificate.

2. Firms as defined by R.S. 40:1652(1) and their owners shall be responsible for the acts of their agents and employees for the purpose of these rules including the initiation of administrative action by the State Fire Marshal.

C. The following shall apply to both permits and certificates of registration.

1. Posting. Each permit or certificate shall be posted conspicuously at each firm and/or branch office premises. All businesses without a physical location in this state shall be required to purchase a duplicate permit or certificate to post in each vehicle which will come into this state to do work.

2. Changes of ownership. The change of a firm's majority ownership invalidates the current certificate. To assure continuance of the firm, an application for a new certificate shall be submitted to the State Fire Marshal within 10 days after such change in ownership.

3. Change of Corporate officers. Any change of corporate officers must be reported in writing to the State Fire Marshal within 10 days of the change, and does not require a revised certificate.

4. Duplicates. A duplicate permit or certificate must be obtained from the State Fire Marshal to replace a lost or destroyed permit or certificate. The permit or certificate holder must submit written notification of the loss or destruction within 10 days, accompanied by the required fee specified in LAC 55:V.3031.

5. Revisions/Changes. The change of a business's name, location, or mailing address or operating status requires a revision of the permit or certificate of registration. Permits or certificates of registration requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit or certificate of registration holder must submit written notification of the change with the surrendered permit certificate of registration, accompanied by the required fee specified in LAC 55:V.3031.

6. Non-transferability. A permit or certificate of registration is not transferable from one business to another.

7. Validity. A permit or certificate of registration is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which certificates expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each registrant pays only that portion of the fee that is allocable to the number of months during which the certificate is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1329 (June 2000).

§3017. Licensure

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S. 40:1651, et seq. other than an apprentice, who certifies, inspects, installs, maintains and services portable fire extinguishers, and/or plans, certifies, inspects, installs, maintains or services fixed fire extinguishing systems and/or fire detection and alarm systems and/or

engages in hydrostatic testing shall have a current and valid license issued by the State Fire Marshal.

B. Types of licenses. Each license shall be identified by class, which indicates the authorized act or acts which may be performed by the licensee as follows.

1. Class "A" Technician's License authorizes the person to certify, inspect, install, maintain and service portable fire extinguishers.

2. Class "B" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service pre-engineered fixed fire extinguishing systems.

3. Class "B-1" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service pre-engineered fixed fire extinguishing systems containing wet or dry chemical agents within a kitchen ventilation system.

4. Class "C" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service engineered or pre-engineered fixed fire extinguishing systems.

5. Class "D" Technician's License authorizes a person to plan, certify, inspect, install, maintain and service fire detection and alarm systems.

6. Class "D-1" Technician's License authorizes the person to plan, certify, inspect, install, maintain and service fire detection and alarm systems in structures or occupancies which are not required by NFPA 101 to be protected by an approved fire detection and alarm system.

7. Class "D-2" Technician's License authorizes the person to perform routine inspection and minor service and repair of fire detection and alarm systems within the owner's own facility. No planning, installing or certifying of these systems/equipment is permitted. Minor service and repair is defined as repair/replacement of single initiating and/or annunciating devices with identical new devices. Routine inspection is defined as visual inspections and monthly drill tests.

8. Class "E" Hydrostatic Tester's License authorizes the person to perform hydrostatic testing.

9. Trainee License authorizes the person to inspect, install, maintain and service portable fire extinguishers, fixed fire extinguishing systems and/or equipment of fire detection and alarm systems and/or equipment while under the direct supervision of a licensed technician who holds a current and valid license for the work to be performed. A trainee license can be renewed annually as long as the individual or firm desires. The supervising technician and trainee must work for the same firm which must be certified for the work to be performed.

C. Posting. It is not necessary to post an employee license on a wall. A master list of all employees' names and license numbers must be kept at each office location and must be available for review upon request by the State Fire Marshal or his designated representative.

D. Pocket License. The pocket license is for immediate identification purposes only so long as such license remains valid and while the holder is employed by the firm reflected on the license and shall be on his/her person at all times when conducting fire protection work in the field. The pocket license need not be visibly displayed when working in areas where the license may be damaged or lost. The license must still be available for inspection upon request.

E. Duplicate License. A duplicate license must be obtained from the State Fire Marshal to replace a lost or destroyed license. The license holder and his employer must submit written notification within 10 days of the loss or destruction of a license, accompanied by the required fee as specified in LAC 55:V.3031.

F. Revised licenses. The change of a licensee's employer, home address or mailing address or employment status requires a revised license. Licenses requiring revision must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The license holder and his employer must submit written notification of the necessary change with the surrendered license, accompanied by the required fee as specified in LAC 55:V.3031.

G. Non-Transferable. A license is not transferable from one person to another or from one firm to another.

H. License Reciprocity. The State Fire Marshal may waive any license requirements for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

I. Validity. A license is valid for one year from date of issue, and must be renewed annually unless the State Fire Marshal adopts a system under which licenses expire on various dates during the year. Should a staggered renewal system be adopted, the renewal fees shall be prorated on a monthly basis so that each licensee pays only that portion of the fee that is allocable to the number of months during which the license is valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1330 (June 2000).

§3019. Apprentice Permit

A. Required. Each employee of a firm, to which a certification of registration has been issued pursuant to the provisions of R.S. 40:1651, et seq. engaged as an apprentice shall have a current and valid apprentice permit issued by the State Fire Marshal.

B. Validity. A permit shall be valid for a period of one year from the date of issuance and is non-renewable.

C. Supervision. An apprentice may perform the various acts of inspecting, installing, maintaining or servicing portable fire extinguishers, fixed fire extinguishing equipment and/or systems and fire detection and alarm equipment and/or systems only while under the direct supervision of and accompanied by a licensee holding a valid license to perform such acts. The apprentice and the supervising licensee must be employees of the same firm.

D. Identification. A permit holder shall, upon demand by the State Fire Marshal or his designated representative, show and allow the examination of such permit.

E. Posting. It is not necessary to post the apprentice permit on a wall, but it must be kept on the apprentice's person at all times whenever the apprentice is performing activity regulated by R.S. 40:1651, et seq. and these rules.

F. Pocket Permit. The pocket permit must be kept on the apprentice's person at all times and shall be on his/her person at all times while conducting fire protection work in the field. The pocket permit need not be visibly displayed when working in areas where the permit may be damaged or lost. The permit must still be available for inspection upon request.

G. Duplicate Permit. A duplicate permit must be obtained from the State Fire Marshal to replace a lost or destroyed permit. The permittee and his employer must submit written notification within 10 days of the loss or destruction of the permit, accompanied by the required fee as specified in LAC 55:V.3031.

H. Revised Permits. The change of a permittee's employer, home address or mailing address or employment status requires a revised permit. Permits requiring changes must be surrendered to the State Fire Marshal within 10 days after the change requiring the revision. The permit holder and his employer must submit written notification within 10 days of the necessary change, with surrendered permit, accompanied by the required fee as specified in LAC 55:V.3031.

I. Non-Transferable. A permit is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1330 (June 2000).

§3021. Alteration of Certificates, Licenses or Permits

A. Any alteration of a certificate of registration, license or permit renders it invalid and such alteration shall be the basis for administrative action in accordance with penalties set forth in R.S. 40:1625, et seq., R.S. 40:1651, et seq. and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1330 (June 2000).

§3023. Application for Permits or Certificates of Registration

A. Applications for certificates of registration for fire protection firms and their branch offices and permits for fire protection sprinkler contractors shall be in writing on the forms provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V.3031A.

B. The application for permits or certificates of registration shall:

1. be executed by the sole proprietor, by each partner of a partnership, or by the authorized officer of a corporation or association;
2. identify the type of permit or certificate of registration applied for;
3. identify the principal location of the business;
4. identify the location of each branch office;
5. identify the business's Louisiana Sales Tax number and Federal Tax number;
6. identify any and all names by which the business may conduct activity regulated by R.S. 40:1625 et seq., 40:1651 et seq. and these rules;
7. identify the contact person as defined by these rules;
8. identify the qualifying person for businesses seeking permitting or certification in any of the following disciplines:
 - a. engineered fixed fire extinguishing systems;
 - b. fire detection and alarm systems; or
 - c. fire protection sprinkler systems;
9. include for engineered fixed fire extinguishing system and fire detection and alarm systems firms a separate

employee application for their qualifying person along with the qualifying person's credentials and an originally signed and notarized employment affidavit;

10. except for fire protection sprinkler contractors, be accompanied by:

a. at least one application with fee from an employee seeking to obtain a technician's license in each class of certification;

b. a current certificate of insurance issued to the office of State Fire Marshal in the following minimum amounts:

No.	Class of Certificate	Amount
1.	Class A: Portables	\$ 300,000
2.	Class B: Pre-Engineered Systems	\$ 500,000
3.	Class B-1: Kitchen Suppression Systems	\$ 500,000
4.	Class C: Engineered & Pre-Engineered Systems	\$ 1,000,000
5.	Class D: Alarms	\$ 500,000
6.	Class D-1: Non-Required Systems	\$ 300,000
7.	Class D-2 :Owner of Fire Alarm Systems	\$ 300,000
8.	Class E: Hydrostatic Testing	\$ 500,000

c. a copy of the local business or occupational permit for the firm;

11. if the firm desires a Class "E" (Hydrostatic) Certificate of Registration, be accompanied by the following:

a. a copy of the DOT letter registering applicant's facility which awards a registration number to the facility; and

b. a copy of the firm's identifying mark (symbol);

12. for out of state businesses, include a list of all vehicles which shall come into this state to conduct activity regulated by R.S. 40:1625, et seq., R.S. 40:1651, et seq. and these rules. The list shall include the vehicle's make, model, year and license number.

C. The application shall also include written authorization by the applicant permitting the State Fire Marshal or his representative to enter, examine, and inspect any premise, building, room, vehicle, or establishment used by the applicant while engaged in activity to determine compliance with the provisions of R.S. 40:1625, et seq., R.S. 40:1651, et seq. and these rules.

D. When the applicant has completed the requirements contained above, a pre-certification inspection may be conducted at the facilities or of the vehicles of the applicant. Such inspection is to determine that such equipment necessary to perform activities in accordance with the applicable NFPA codes and/or standards, UL or manufacturer's specifications for which the applicant is applying to be permitted or certified is on hand. The office may inspect vehicles, equipment, buildings, devices, premises or any area to be used in performing the activities allowed by the permit or certificate of registration. After issuance of a permit or certificate of registration, such facilities may be inspected annually thereafter or as frequently as deemed necessary to ensure that the equipment requirement continues to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1331 (June 2000).

§3025. Application for Licenses

A. Original and renewal applications for a license from an employee of a certified firm shall be on forms provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V.3031.

B. Applications for technician's licenses shall be accompanied by a written statement from the employer certifying the applicant's competency to plan, certify, inspect, install, maintain or service those systems and/or equipment for which the applicant desires to become licensed.

C. Applications for technician's licenses will not be accepted unless accompanied by documentation showing that the applicant has met all competency requirements as provided in LAC 55:V.3033.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1331 (June 2000).

§3027. Application for Apprentice Permit

A. Each person employed as an apprentice by a certified firm shall apply for a permit on a form provided by the State Fire Marshal and accompanied by the required fee as specified in LAC 55:V.3031.

B. Due to the supervisory requirements of R.S. 40:1653(D), no competency examination is required for an apprentice permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1331 (June 2000).

§3029. Fees-General Information

A. Every fee required in accordance with the provisions of R.S. 40:1625, et seq. and R.S. 40:1651, et seq. and these rules, shall be paid by check or money order made payable to the Office of State Fire Marshal. Cash cannot be accepted.

B. Fees shall be paid at or mailed to the Office of the State Fire Marshal at 5150 Florida Blvd., Baton Rouge, Louisiana 70806.

C. Late fees are required by R.S. 40:1625, et seq. and R.S. 40:1651, et seq. on all permit, certificate of registration or license holders who fail to submit renewal applications on or prior to their expiration date.

D. A renewal application accompanied by the required renewal fee and deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a legible postmark date which is on or before the expiration date of the permit, certificate or license being renewed.

E. Holders of permits, certificates and licenses which have been expired for less than two years cannot be issued new certificates or licenses.

F. Permits, certificates or licenses which have been expired for two years or more cannot be renewed, and the holders thereof must apply for a new permit, certificate or license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1331 (June 2000).

§3031. FeesC Specific Information

A. Permit Fee: R.S. 40:1625, et seq. (Fire Protection Sprinkler Contractors).

1. Original (Initial) Permit Fee: [R.S. 40:1628(A)] \$100.
2. Renewal Fee: [R.S. 40:1631(D)] \$100.
3. Late Renewal Fee: [R.S. 40:1631(C)] \$150.
4. Revised or Duplicate Permit Fee: \$20.

B. Certificates of Registration Fees: R.S. 40:1651, et seq. (Fire Protection Firm):

1. Original Certification Fees.
 - a. Original Certification Fee: [R.S. 40:1653(A)] \$350.
 - b. Each additional certification fee: \$100.
 - c. Original Hydrostatic Testing Certification Fee: [R.S. 40:1653(E)] \$50.
2. Renewal Fee: [R.S. 40:1653(A)]
 - a. Class A (portable fire extinguishers): \$150.
 - b. Class B (pre-engineered fixed fire extinguishing): \$100.
 - c. Class B-1 (pre-engineered kitchen fixed fire extinguishing): \$50.
 - d. Class C (engineered & pre-engineered fixed fire extinguishing): \$100.
 - e. Class D Certificate (required fire detection and alarm): \$100.
 - f. Class D-1 Certificate (non-required fire detection and alarm): \$50.
 - g. Class D-2 Certificate (owner of fire alarm): \$50.
 - h. Class E Certificate (hydrostatic testing): \$50.
3. Late Renewal Fee. A penalty shall be assessed in accordance with R.S. 40:1657 (E) for the late renewal of a certificate of registration.
 4. Change in ownership: [R.S. 40:1653(B)] \$350.
 5. Changes or alterations: [R.S. 40:1653(B)] \$20.
 6. Duplicate Certificates of Registration: [R.S. 40:1653(B)] \$20.

C. Branch Office Fees.

1. Original Application Fee. Regardless of how many classes of certification of registration selected by the applicant, the original (initial) fee for a branch office is always \$100 [R.S. 40:1653 (A)], including branch offices of firms certified in hydrostatic testing.

2. Renewal fees: [R.S. 40:1653(A)] \$100.
 3. Late Renewal Fees: A penalty shall be assessed in accordance with R.S. 40:1657(E) for the late renewal of a license.
 - a. Not more than 90 days: \$150.
 - b. More than 90 days but less than two years: \$250.
 4. Change in Ownership: [R.S. 40:1653(B)] \$100.
 5. Changes or alterations: [R.S. 40:1653(B)] \$20.
 6. Duplicates: [R.S. 40:1653(B)] \$20.
- D. License Fees: Classes A, B, B-1, C, D, D-1, D-2 and Trainee.
1. Original license fee: [R.S. 40:1653(C)]
 - a. The first class of license selected: \$50.
 - b. Each additional license: \$10.
 2. Renewal Fees: [R.S. 40:1653(C)]
 - a. First class of license renewed: \$50.

b. Each additional class of license renewed: \$10.

3. Late Renewal Fees: A penalty shall be assessed in accordance with R.S. 40:1657(E) for the late renewal of a license.

- a. Expired not more than 90 days:
 - (i). First class of license renewed: \$75
 - (ii). Each additional class of license renewed: \$15
- b. Expired more than 90 days but less than two years:
 - (i). First class of license renewed: \$100
 - (ii). Each additional class of license renewed: \$20
4. Changes or Alteration Fees: [R.S. 40:1653B)] \$20.
5. Duplicate License Fees: [R.S. 40:1653B)] \$20.
6. Initial Competency Examination Fee: (Non-refundable) [R.S. 40:1653(C)] (per exam) \$10.
7. Re-examination Fee: (Non-refundable) [R.S. 40:1653(C)] (per re-exam) \$10.

E. Apprentice Permit Fees

1. Original (initial) permit fees: [R.S. 40:1653(D)] \$30.
2. Changes or alterations: [R.S. 40:1653(B)] \$20.
3. Duplicate permits: [R.S. 40:1653(B)] \$20.

F. Fees for Class E Licenses

1. Original (initial) license fee: [R.S. 40:1653(E)] \$25.
2. Renewal license fee: [R.S. 40:1653(E)] \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1332 (June 2000).

§3033. Examinations

A. Applicants for licenses are required to take an examination and obtain at least a grade of 75 percent in each appropriate section of the examination. Examinations may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability.

B. The technician's license examination will include the following:

1. a section on these rules and R.S. 40:1651, et seq.;
2. a section on the planning, certifying, inspecting, installing, maintaining and servicing of those types of systems for which the applicant desires to be licensed.

C. The standards used in examinations will be those applicable codes and standards adopted by LAC 55:V.103.

D. Applicants who fail any section may file a reexamination application accompanied by the required fee and retake the examination.

E. A person whose license has been expired for two years or longer must take and pass another examination prior to the issuance of a new license. No examination is required for a licensee whose license is renewed within two years of expiration.

F. A person who desires to take a competency test must first pre-register for that test with the State Fire Marshal's Office or the examination administrator designated by the State Fire Marshal, on a pre-registration form provided by this office or the examination administrator. The pre-registration form and the required fee must be received by the office five working days prior to the examination date.

G Results. Examination scores shall be mailed to the applicant's address as listed on the pre-registration form within 30 days after completing the test.

H. In lieu of an examination, the Office of the State Fire Marshal may accept an approved training course in which an examination is also given. The Office of the State Fire Marshal shall determine whether the training course is equivalent to the examination requirements and may audit the course, at no cost to the office, prior to final determination and periodically to ensure continued equivalency. Requests for acceptance of a training course to be equivalent must be made in writing and include the following:

1. course outline and syllabus;
2. length of course and specific time covered per topic;
3. example of test questions;
4. a copy of the certificate granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1332 (June 2000).

§3035. Portable Fire Extinguishers

A. General Provisions

1. Portable fire extinguishers shall be inspected, installed, maintained and serviced in compliance with the edition of NFPA 10 most recently adopted by the Office of the State Fire Marshal in LAC 55:V.103.

2. A service tag shall be securely attached by the licensee to the portable upon completion of any work.

3. When an extinguisher is found to be in a condition which would not allow hydrostatic testing as described in NFPA 10, as adopted by the Office of the State Fire Marshal in LAC 55:V.103, the extinguisher shall be red tagged or removed from service and destroyed in accordance with NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

4. When an extinguisher is removed from the owner's premise for service, a replacement extinguisher shall be left of equal or greater rating on a one for one basis. Replacements need not be left where a building owner has fire extinguishers in excess of the required amount as required by NFPA 10 and NFPA 101 as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

5. Anytime an extinguisher is opened for any reason then the appropriate maintenance procedures in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103, shall be performed. If these procedures fulfill the requirements of a six-year maintenance then a record tag shall be affixed to the exterior of the extinguisher shell. Future six year maintenance procedures shall begin from that date.

B. Record Tag. Each six-year maintenance shall be recorded on a record tag consisting of a decal which shall be affixed (by a heatless process) on the exterior of the extinguisher shell. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required period. The decal shall also not fade, wash away, or otherwise become illegible. This paragraph supersedes labeling requirements set forth in NFPA 10 as adopted by the Office of the State Fire Marshal in LAC 55:V.103. Previous six year

maintenance record tags shall be removed when a new one is affixed. The record tag shall contain the following information:

1. year and month that the six-year maintenance was performed;
2. the name of the firm and its certificate number;
3. the initials of the person performing the maintenance and his/her license number.

C. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time an extinguisher is opened up for any type of maintenance or for any purpose.

2. The standard external verification collar shall be on durable material. Self-adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

D. External verification collars shall bear the following:

1. the certificate number of servicing firm (preprinted or printed in permanent ink);

2. name and license number of the person who perform the service (preprinted or printed in permanent ink);

3. month and year that the service was performed (to be punched).

E. A new external verification collar shall be provided for an extinguisher each time internal maintenance or recharging is performed or the extinguisher is opened for any other reason. A new external verification collar is not needed when a CO₂ extinguisher is recharged without opening the cylinder for inspection or on side cartridge type extinguishers.

F. External verification collars shall be affixed in the following manner.

1. Any collar previously attached shall be removed prior to affixing a new collar.

2. The collar shall be placed around the exterior of the cylinder at or below the valve assembly.

G The diameter of the opening for external verification collars shall not exceed 1/4 inches the diameter of the extinguisher's neck, measured directly below the valve assembly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1333 (June 2000).

§3037. Fixed Fire Extinguishing, Fire Detection and Alarm and Fire Protection Sprinkler Systems

A. All new (complete or renovated) required fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be planned, certified, inspected, installed, maintained and serviced in compliance with the manufacturer's installation manuals, specifications, reviewed plans and the applicable codes and standards adopted in LAC 55:V.103 and 3053. All existing required fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be certified, inspected, maintained and serviced in an operational condition in accordance with the manufacturer's installation manuals, specifications, and per the inspection, testing and maintenance chapters of the applicable codes and standards adopted in LAC 55:V.103 and 3053. All non-required and

non-conforming fixed fire extinguishing systems including pre-engineered and engineered systems, fire detection and alarm systems and fire protection sprinkler systems shall be planned, certified, inspected, installed, maintained and serviced in compliance with the manufacturer's installation manuals, specifications, and deviations from the applicable codes and standards adopted in LAC 55:V.103 and 3053 as authorized by the Office of the State Fire Marshal. Non-required and/or non-conforming systems/equipment which only comprise of smoke detectors connected to a burglar alarm system need not be inspected and certified annually by a certified fire alarm system firm. The owner of these systems must ensure these systems are functional and maintained in compliance with the manufacturer's specifications, as provide by R.S. 40:1561, et seq., and NFPA 101 as adopted by LAC 55:V.103.

B. All systems shall be planned, certified, inspected, installed, maintained and serviced by certified firms having licensed personnel working within their certification and licensing discipline. In cases where disciplines cross over, the following reasoning will prevail.

1. Automatic detection and control systems will be planned, inspected, installed, maintained and serviced by firms certified to install fire detection and alarm systems and/or equipment unless it is just the section device associated with the actuation of an engineered or pre-engineered system, in which case the fire detection and alarm firm is not needed. However, any connection of that engineered or pre-engineered system to any alarm initiated system, to include but not limited to annunciator panels, HVAC shutdown and any other auxiliary feature controlled by the fire alarm system, then a firm certified in Fire Detection and Alarms must plan, certify, inspect, install, maintain or service the device.

2. Water supply and distribution piping systems as provided for in NFPA 25, as adopted in LAC 55:V.103 will be planned, certified, inspected, installed, maintained and serviced by certified fire protection sprinkler contractors. Foam systems providing foam solution to fire monitors, portable nozzles, or fire trucks are excluded from this rule.

3. Alarm devices such as flow switches, pressure switches, low air pressure switches that are an integral part of the piping system must be installed by certified fire protection sprinkler contractors and connected to the fire alarm system by a certified fire detection and alarm firm.

C. All non-required or non-conforming systems require written permission and possible review from the Office of the State Fire Marshal Plan Review Section prior to installation. Non-conforming systems shall be maintained in a functioning operational state as long as the system is within the facility. Non-required systems shall be maintained in accordance with the inspection, testing, and maintenance chapters of the applicable NFPA codes, standards and manufacturers specifications governing that particular system as long as the system is within the facility.

D. Interconnected smoke detector systems as required by the NFPA 101, as adopted by the Office of the State Fire Marshal in LAC 55:V.103, or as authorized by this office must be planned, inspected, installed, maintained and serviced by either a certified fire detection and alarm firm or an electrical contractor as provided by R.S. 40:1656 (7).

These systems must be submitted to this office for review prior to installation.

E. External Verification Collar

1. In addition to any other tag required by these rules, an external verification collar shall be provided each time a fixed fire suppression agent cylinder is opened for any purpose.

2. The external verification collar shall be on durable material. Self adhesive collars shall be permitted. Any color may be used with the exception of yellow or red.

3. External verification collars shall bear the following:

a. the certificate number of servicing firm, preprinted or printed in permanent ink;

b. name and license number of the person who performed the service, preprinted or printed in permanent ink;

c. month and year that the service was performed. This information must be punched.

F. A new external verification collar is not needed in the following circumstances:

1. when a CO₂ cylinder is recharged without opening the cylinder for inspection;

2. cartridge operated type of systems.

G. External verification collars shall be affixed in the following manner:

1. any collar previously attached shall be removed prior to affixing a new collar;

2. the collar shall be placed around the exterior of the cylinder at or below the valve assembly.

H. The diameter of the opening for external verification collars shall not be more than 1/4 inch larger than the diameter of the cylinder's neck, measured directly below the valve assembly.

I. The office may exempt additional cylinders from this requirement if good cause is shown that the requirement is impractical or overly burdensome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1334 (June 2000).

§3039. Hydrostatic Tests

A. All hydrostatic testing shall be conducted in compliance with U.S. Department of Transportation hydrostatic testing requirements, or, where applicable, in compliance with the appropriate NFPA code or standard as adopted by the Office of the State Fire Marshal in LAC 55:V.103. The owner shall be informed of a needed test or replacement.

1. Recording of Tests:

a. High Pressure Cylinders. High pressure cylinders and cartridges shall be stamped in accordance with the applicable NFPA and D.O.T. standards as adopted by the Office of the State Fire Marshal in LAC 55:V.103.

b. Low Pressure Cylinders. Each hydrostatic test shall be recorded on a record tag consisting of a decal which shall be affixed by a heatless process on the exterior of the extinguisher cylinder. The decal shall either be metallic or of an equally durable material which does not corrode and which remains affixed to the extinguisher for the required

period. The decal shall also not fade, wash away, or otherwise become illegible.

c. The record tag shall contain the following information, which, exception for Subparagraph c and d hereof, must be hand punched:

- i. year and month that the hydrostatic test was performed;
- ii. test pressure used;
- iii. name of the firm and its certificate number;
- iv. initials of the person performing the maintenance and his license number.

d. Previous hydrostatic test record tags shall be removed when a new one is affixed.

2. Minimum Equipment and Facilities Requirements. The following equipment shall be required depending upon the firm's class of certification.

- a. Class A (low pressure hydrostatic testing)
 - i. approved equipment for drying cylinders;
 - ii. test apparatus including appropriate adapters, fittings and tools;

- iii. approved closed recovery unit;
 - iv. Department of Agriculture approved scales for unit measure. Scales shall be certified annually by the Department of Agriculture or its designated agent;

- v. hydrostatic test labels as required by the applicable NFPA code(s) or standard(s), as adopted by the Office of State Fire Marshal in LAC 55:V.103;

- vi. facilities for leak testing of pressurized extinguishers;

- vii. adequate safety cage for hydrostatic testing of low pressure cylinders;

- viii. cylinder inspection light;

- ix. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric);

- x. continuity tester;

- xi. gauge tester

- b. Class E (high pressure hydrostatic testing)
 - i. adequate hydrostatic test equipment for high pressure testing and calibrated cylinder including appropriate adapters, fittings and tools;

- ii. adequate equipment for test dating high pressure cylinders (over 900 PSI). Die stamps must be a minimum of 1/4 inch;

- iii. clock with sweep second hand on or close to hydrostatic test apparatus;

- iv. approved equipment for drying cylinders;

- v. facilities for leak testing of pressurized extinguishers;

- vi. cylinder inspection light;

- vii. proper wrenches with non-serrated jaws or valve puller (hydraulic or electric);

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1334 (June 2000).

§3041. Installation Tags

A. Upon installation of any new fire protection system, the system shall have a tag permanently affixed to the panel for fire detection and alarm and fixed fire extinguishing systems. On kitchen fixed fire extinguishing systems, the tag shall be permanently affixed to the side of the extinguishing agent cylinder. This requirement does not apply to portable

fire extinguishers or fire protection sprinkler systems. The installation tag shall be a minimum of 2 3/4 inches by 2 3/4 inches. Maximum size cannot exceed 5 inches by 5 inches. The tag shall be white in color and have a self-adhesive backing. The following information and wording shall be required on the front side of the tag:

1. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters, in bold type);

2. installation tag (preprinted);

3. installation date: (date to be hand-written);

4. business's name (preprinted);

5. business's certificate number (preprinted);

6. technician's name: (name to be preprinted or hand-written);

7. technician's license number: (number to be preprinted or hand-written);

8. technician's signature: (signature cannot be preprinted);

9. NFPA code edition system was installed under: (hand-written);

10. plan review or exemption number: (to be hand-written);

11. serial or model number of panel and/or cylinder, if applicable: (to be hand-written);

B. All tags shall have a signature line for the technician to sign the tag upon completion of the work. No preprinted signatures are permitted. Technicians must sign the tag; initials are not permitted. Apprentices are not permitted to sign tags.

C. If after initial installation a cylinder or panel is replaced for any reason, a new installation tag shall be completed and attached as above, noting the appropriate changes in information.

D. If a installation tag is replaced, hand-write REPLACEMENT after the installation date. If the installation date is not known the date of replacement can be used.

E. Copies of certificates of compliance required to be completed by this office shall be attached to the system in a plastic pocket pouch/sleeve or given to the owner for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1335 (June 2000).

§3043. Service, Yellow, and Red Tags

A. All portable fire extinguishers, fixed fire extinguishing equipment and/or systems, fire detection and alarm equipment and/or systems and fire protection sprinkler systems shall be tagged in the following manner.

1. Service Tags
 - a. A service tag shall be completed and attached to a portable fire extinguisher, a fixed fire extinguishing system, a fire detection and alarm system, a fire protection sprinkler system, a standpipe and a hose station after it has been certified, inspected, installed, maintained or serviced indicating all work that has been done.

- b. Service tags shall be green in color for fixed fire extinguishing systems, fire detection and alarm systems, standpipe/hose stations and fire protection sprinkler systems. Service tags may be of any color but yellow or red for portable fire extinguishers.

- c. The service tag shall be attached at the following locations.

- i. For portable fire extinguishers the tag shall be attached at the valve.
- ii. For fixed fire extinguishing systems the tag shall be attached at the tank and at the panel.
- iii. For kitchen fixed fire extinguishing systems the tag shall be attached at the tank and at the manual pull station.
- iv. For fire detection and alarm systems the tag shall be attached at the panel.
- v. For fire protection sprinkler systems the tag shall be attached at the riser and/or fire pump.
- vi. For standpipes/hose stations the tag shall be attached at the valve control and/or fire pump.
- d. The service tag shall be attached in such a way as to not hamper the actuation and operation of the equipment or system.
 - e. A service tag shall be attached on all systems found to be in proper working condition and which are found to be in an operational condition per the inspection, testing and maintenance chapters of the applicable NFPA codes and standards. This tag shall be used for new installations and shall be in addition to the installation tag provided for in §3041 above. This tag shall also be used for all service and maintenance where the system is found to meet the above conditions.
 - f. Service tags must contain all of the information listed below:
 - i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold-face type);
 - ii. servicing business's name, address and telephone number;
 - iii. servicing business's State Fire Marshal certificate number;
 - iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;
 - v. servicing technician's signature to be signed at time of service (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);
 - vi. month and year in which service was performed (must be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);
 - vii. type of service performed. Only service and inspection shall be noted on tag for type of work performed (must be punched through service tag); specifics as to service performed shall be noted on rear of tag, (i.e., recharged cylinder, changed smoke detector, repaired pull station, etc);
 - viii. serial number of portable fire extinguisher, fixed fire extinguishing system cylinder and/or panel and fire detection and alarm system control panel;
 - ix. owner of system and address of owner (to be noted on rear of tag).

2. Partial Impairment Tags (Yellow Tags)

- a. All businesses engaged in the activity of planning, certifying, inspecting, installing, maintaining or servicing of fixed fire extinguishing systems, fire detection and alarm systems and/or fire protection sprinkler systems shall be allowed to have a partial impairment tag, to be yellow in color, which is to be used when minor deficiencies

are found on these systems. The partial impairment tag is in addition to the requirement of having a service tag and impairment tag (red tag).

- b. A partial impairment tag may be placed on all systems in which there is a deficiency with the system but where the system is still functional. This would include situations where routine service is needed but has not been approved by the owner of the system or equipment.

c. A partial impairment tag shall not remain on a system for more than 60 days. If the problem is not corrected after 60 days the certified business shall be required to notify, in writing, the Office of the State Fire Marshal Inspection Section.

d. Partial impairment tags must contain all of the information listed below:

- i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold-face type);
- ii. servicing business's name, address and telephone number;
- iii. servicing business's State Fire Marshal certificate number;
- iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;
- v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);
- vi. month and year in which the impairment was found (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);
- vii. dateline in which the actual day, month and year the inspection was performed (to be hand written);
- viii. type of impairment found (to be hand written on rear of tag);
(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.)
- ix. serial number of fixed fire extinguishing system cylinder and/or panel, fire detection and alarm system control panel or fire protection sprinkler system check valve;
- x. Owner of system and address of owner (to be noted on rear of tag).

3. Impairment Tags (Red Tags)

a. Upon the effective date of these rules, a new impairment tag, which shall be red in color, shall be used.

b. An impairment tag shall be placed on all fixed fire extinguishing, fire detection and alarm systems or fire protection sprinkler systems where the system is impaired to the point that life safety is at risk or to the point that the automatic or manual discharge system will be prevented from functioning as intended.

c. Portable fire extinguishers, standpipe systems or hose stations shall be red tagged when the equipment or system is inoperable for any reason.

d. Impairment tags shall also be placed on any system or portable where life safety is in imminent danger.

e. Written notice shall be made to the owner and to the Office of the State Fire Marshal Inspection Section by the certified business as soon as is practically possible but shall not exceed two working days after the impairment is discovered. Written notification can be by mail or facsimile.

The Office of State Fire Marshal shall provide a form for notification.

f. Impairment tags must contain all of the information listed below:

i. **DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL** (all capital letters in bold-face type);

ii. servicing business's name, address and telephone number;

iii. servicing business's State Fire Marshal certificate number;

iv. servicing technician's name and State Fire Marshal license number to be printed on tag either at the time of service or preprinted;

v. servicing technician's signature to be signed at time of inspection (no preprinted signatures nor initials are permitted; installers, trainees or apprentices are not permitted to sign tags);

vi. month and year in which the inspection was performed (to be punched through service tag at designated marks for month and year; designated marks for month and year shall only be punched once per tag);

vii. dateline in which the actual day, month and year the inspection was performed (to be hand-written);

viii. type of impairment found (to be hand-written on rear of tag);

(If additional space is needed to note the impairments, then multiple tags shall be used noting 1 of 2, 2 of 2, etc.)

ix. serial number of portable fire extinguisher, fixed fire extinguishing system cylinder and/or panel, fire detection and alarm system control panel or fire protection sprinkler systems check valve;

x. owner of system and address of owner (to be noted on rear of tag).

g. Notification of fire protection equipment/systems and fire protection sprinkler systems inspections where no deficiencies are found shall not be sent to the Office of the State Fire Marshal unless specifically requested.

4. Written Notification. The following information is required to be sent when written notification is made to the Office of the State Fire Marshal:

a. name, address, and telephone number of the owner of the system;

b. name, address, telephone number, and certificate number of the business noting the impairment;

c. name and license number of the technician who did the inspection;

d. type of system (manufacturer and model number should also be included);

e. code, inspection chapter and year edition firm used for inspection;

f. reason for the impairment;

Note: A copy of the inspection or service report shall be included.

g. date system or equipment was red or yellow tagged.

5. Non-required and/or Non-conforming Systems. Where a fire protection or fire protection sprinkler system is non-required or permitted to be installed in a non-conforming state by this Office or is both non-required and non-conforming then the following additions shall be made to the guidelines set forth in this section.

a. Each business shall stamp or write on the installation tag and/or service tag one of the following statement as applicable:

i. NON-REQUIRED SYSTEM; or

ii. NON-CONFORMING SYSTEM; or

iii. NON-REQUIRED/NON-CONFORMING SYSTEM.

b. Such print or stamp shall be in all capital lettering and be written or stamped so as to not obscure other information provided on the tag.

c. This does not supersede the requirements to place a yellow or red tag on a system that is impaired in any way.

6. Miscellaneous Provisions

a. On all fixed fire extinguishing, fire detection and alarm systems and fire protection sprinkler systems, a plastic pocket pouch/sleeve shall also be attached to the panel, riser or tank, as appropriate, where all tags shall be maintained for a period of one year after the system's annual inspection. For kitchen fixed fire extinguishing systems, the pocket pouch/sleeve shall be attached at or near the manual pull station. Upon a new annual inspection (or six-month inspection for kitchen fixed fire extinguishing systems), all previous service tags may be removed and given to the owner to keep on file. This requirement does not apply to portable fire extinguishers, standpipes or hose stations.

b. All tags must be card stock, plastic, vinyl, tyevak or metal in order to maintain the running record for the system. One sided or self adhesive service tags are not permitted except for fire protection equipment or systems on vehicles, vessels and areas subject to adverse conditions. Self adhesive tags shall contain all of the information required on hanging tags.

c. All tags shall be 5 1/4 inches in height and 2 5/8 inches in width.

d. Businesses shall have their tags printed and one forwarded to the State Fire Marshal's Licensing Section for approval and incorporation in the business's file.

e. All tags remain the property of the a certified business and may be removed only by licensed employees of the certified business or employees of the State Fire Marshal's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1336 (June 2000).

§3045. Prohibited Acts and Equipment

A. The following acts are prohibited and shall be considered grounds for administrative action to be taken against businesses, persons and/or employees committing such:

1. charging a customer for work that was not performed;

2. misrepresenting ones elf and/or one's business to a customer or to a deputy fire marshal or his designated representative;

3. impersonating the state fire marshal, his designated representative or any other public official;

4. intimidating or coercing a customer;

5. planning, certifying, inspecting, installing, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal;

6. falsifying an application or any other document

submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal;

7. falsifying tags, labels, inspection reports, invoices and/or other documents;

8. working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done;

9. working an employee or apprentice or as an employee or apprentice without the appropriate class of license or permit or working without a proper license or permit;

10. working without the appropriate classification of firm certificate or working without a permit or certificate;

11. working with an expired license, permit or certificate;

12. failing to notify the Office of the State Fire Marshal of any changes that affect licensure;

13. contracting to a business, person or employee which is not properly certified, permitted or licensed through the Office of the State Fire Marshal to perform acts regulated by the provisions of R.S. 40:1625, et seq. and R.S. 40:1651, et seq. or these rules;

14. failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal;

15. installing a fixed fire extinguishing system, fire detection and alarm system or fire protection sprinkler system prior to submitting and receiving a stamped set of plans or go to work letter from the Plan Review Section of the Office of the State Fire Marshal;

16. failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly plan, certify, inspect, install, maintain or service the systems or equipment for which a business is certified or permitted;

17. failing to adhere to all applicable laws and rules governing fire protection sprinkler systems or fire protection systems and/or equipment as promulgated by the Office of the State Fire Marshal;

18. engaging in false, misleading or deceptive acts or practices;

19. aiding and abetting an unlicensed individual, employee or business in the planning, inspecting, installing, maintaining or servicing of a portable fire extinguisher, fixed fire extinguishing equipment and/or system, fire detection and alarm equipment and/or system or fire protection sprinkler equipment and/or system.

B. The following portable fire extinguishers and cylinders are prohibited from use:

1. carbon tetrachloride portables;

2. portable fire extinguishers or fixed fire extinguishing system cylinders without labels of an approved testing laboratory or name plates, except that a portable fire extinguisher or fixed fire extinguishing system cylinders whose original label or name plate has been replaced with a manufacturer approved replacement label or name plate, and maintenance records as provided below, documenting the replacement shall not be prohibited;

3. Maintenance records shall include the following:

a. manufacturer;

b. type and size of the portable fire extinguisher or fixed system cylinders;

c. serial number of extinguisher or fixed system cylinders;

d. dates and types of service performed.

4. Any portable or cylinder prohibited by the adopted NFPA codes and standards listed in LAC 55:V.103.

5. Systems without listing from an approved testing laboratory.

6. Systems or portables in which replacement parts are no longer available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1337 (June 2000).

§3047. Enforcement

A. The State Fire Marshal or his designated representative, shall make, or cause to be made, from time to time, inspections of a business's physical locations, vehicles or job sites to verify required certificates or permits, employee lists, employee licenses and permits, insurances, equipment, tools, NFPA codes, standards and manufacturer's manuals and work/service performed, and as circumstances dictate, to determine that fire protection sprinkler system, portable fire extinguisher, fixed fire extinguishing and fire detection and alarm businesses and their employees are engaging in activity in accordance with the requirements of R.S. 40:1625, et seq., R.S. 40:1651, et seq. and LAC 55:V.Chapter 30.

B. The State Fire Marshal shall investigate all complaints of alleged violations of R.S. 40:1574, R.S. 40:1625, et seq., R.S. 40:1651, et seq. and LAC 55:V.Chapter 30. Complaints of alleged violations shall be made in writing to the Licensing Section of the State Fire Marshal's office. The Office shall make available a complaint form to be used as needed. Penalties shall be administered to those businesses and/or employees found to have violated these laws and/or rules. Proposed administrative penalty letters shall act as official notification of alleged violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1338 (June 2000).

§3049. Administrative Actions

A. The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, license or permit and impose administrative penalties, if, after notice and hearing, as provided for by the Administrative Procedure Act, it is found that a person, certified business, licensee or permit holder, or an applicant for registration, license or permit, failed to comply with the provisions of these rules, R.S. 40:1625, et seq., R.S. 40:1646, et seq. and/or R.S. 40:1651, et seq.

1. Offenses. The following categories shall denote classification of offenses for persons, businesses and employees for determining the penalty to be imposed.

a. Minor

i. Failing to notify the Office of the State Fire Marshal of any changes that affect licensure.

ii. Failing to adhere to the tagging and/or notification policies of the Office of the State Fire Marshal.

iii. Working with an expired (1-60 days) license, permit or certificate of registration.

iv. Failing to properly display a firm certificate or permit or an individual license or permit.

b. Serious

i. Misrepresenting oneself and/or one's business to a customer, prospective customer, state fire marshal, his designated representative or other public official.

ii. Planning, certifying, inspecting, installing, maintaining or servicing fire protection sprinkler systems or fire protection systems and/or equipment contrary to applicable NFPA codes, standards, and/or manufacturer's specifications without specific written permission from the Office of the State Fire Marshal.

iii. Working an apprentice or as an apprentice without direct supervision by a technician licensed to perform the work being done and licensed to the same firm.

iv. Working an employee or as an employee without the appropriate class of license or permit.

v. Working without the appropriate classification of firm certificate or permit.

vi. Working with an expired (61-180 days) license, permit or certificate.

vii. Installing a fixed fire extinguishing system, fire alarm and detection system or fire protection sprinkler system prior to submitting and receiving authorization to install such system from the Plan Review Section of the Office of the State Fire Marshal.

viii. Contracting to a business, person or employee which is not properly certified, licensed or permitted through the Office of the State Fire Marshal to perform any certification, inspection, installation, maintenance or service on fire protection sprinkler systems or fire protection systems and/or equipment.

ix. Failing to possess the equipment, tools, NFPA codes, standards or manufacturer's U.L. listed installation and service manuals to properly plan, inspect, install, maintain or service the systems or equipment for which a business is certified or permitted.

x. Committing five or more minor offenses within a three-year period.

c. Major

i. Charging a customer for work that was not performed.

ii. Impersonating the State Fire Marshal, his designated representative or any other public official.

iii. Intimidating or coercing a customer.

iv. Falsifying an application or any other document submitted to obtain a certificate, license or permit or other documentation requested by or submitted to the Office of the State Fire Marshal.

v. Falsifying tags, labels, inspection reports, invoices and/or other documents

vi. Working without any license or permit.

vii. Working without any firm certificate of registration or permit.

viii. Working an employee or an apprentice without any license or permit.

ix. Aiding and abetting an unlicensed person, employee or business in the planning, certifying, inspecting, installing, maintaining or servicing of a portable fire extinguisher, fixed fire extinguishing equipment and/or

system, fire detection and alarm equipment and/or system or fire protection sprinkler equipment and/or system.

x. Committing three or more serious offenses within a three-year period.

xi. Engaging in false, misleading or deceptive acts or practices.

3. Penalties. The following fine schedule shall be used to access fines to persons, businesses, and/or employees who violate the laws and rules governing the fire protection sprinkler, portable fire extinguisher, fixed fire extinguishing and fire detection and alarm industries. Penalties will be imposed to persons, businesses and/or employees based on the classification of offense. Each classification of offense will have a minimum and maximum fine shown and any other administrative penalty that may be imposed.

a. Businesses and/or Persons

i. Minor: \$50 fine to \$250 fine and/or official warnings may be imposed.

ii. Serious: \$250 fine to \$500 fine and/or suspensions of up to 90 days may be imposed.

iii. Major: \$500 fine to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of certificate may be imposed.

b. Employees and/or Persons

i. Minor: \$10 fine to \$50 fine and/or official warnings may be imposed.

ii. Serious: \$50 fine to \$250 fine and/or suspensions of up to 90 days may be imposed.

iii. Major: \$250 to \$1000 fine and/or suspensions from 91 to 365 days may be imposed and/or revocation of license may be imposed.

c. Revocations may be up to a year, after which reapplication must be made. The Office of the State Fire Marshal may refuse the issuance of a new certificate of registration, a permit or a license if the applicant cannot show good cause for reissuance.

d. The State Fire Marshal may deviate from this fine schedule where circumstances and/or evidence warrant a more stringent or more lenient penalty.

e. Those offenses not enumerated in this list shall receive penalties for violations of similar nature.

f. The Office of the State Fire Marshal may also pursue criminal charges or injunctive relief for any of the above enumerated offenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1338 (June 2000).

§3051. Severability

A. If any provision of these rules or the application thereof to any business, person, employee or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules which can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1339 (June 2000).

§3053. Adopted Standards

A. The office adopts by reference in their entirety those copyrighted standards enumerated in LAC 55:V.103 published by and available from the National Fire Protection Association, Inc. (NFPA), Batterymarch Park, Quincy, Massachusetts, 02268. A copy of the standards shall be kept available for public inspection in the Office of the State Fire Marshal. In addition to those listed standards, the following shall also be adhered to as applicable.

1. ASME/ANSI A17.1C1993, Safety Code for Elevators and Escalators.
2. ASME/ANSI A17.3C1993, Safety Code for Existing Elevators and Escalators.
3. ASME/ANSI A117.1C1980, Specifications for Handicapped Accessibility.
4. ADAAGC1994, American Disability Accessibility Act Guidelines.
5. United States Department of Transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1339 (June 2000).

§3055. National Recognized Testing Laboratory

A. The criteria for recognition by the Office of State Fire Marshal as a "Nationally Recognized Testing Laboratory" shall be as follows. The applicant laboratory's portable fire extinguisher testing standards shall meet or exceed the best listed national standards.

1. Fire Test Standards: ANSI/UL 154, CAN4-S503-M83.
2. Performance Standards
 - a. CO2 Types: ANSI/UL 154, CAN4-S503-M83.
 - b. Dry Chemical Types: ANSI/UL 299, ULC-S504.
 - c. Halon Types: ANSI/UL 1093, ULC-S504.
 - d. 2-1/2 Gallon Stored Pressure Water Types: ANSI/UL 626.
 - e. Factory Follow-up on Third-Party Certified Portable Fire Extinguishers: ANSI/UL 1803.
 - f. Foam Types: ANSI/UL 8.

B. The applicant laboratory shall maintain a follow-up inspection program to confirm that the manufacturer is providing the controls, inspections, and tests necessary to assure that all current manufactured extinguishers will meet the laboratory's testing standards. This follow-up inspection shall occur no less than once each six months for the first two years and once each year thereafter.

1. The application by a testing laboratory for recognition by the State Fire Marshal as a "nationally recognized testing laboratory" shall not be on any particular form but shall include all of the information and material requested in Subsection 2 below.

- 2.a. The address and telephone number of the main facility and all branch offices;
- b. A current organizational chart showing the relationship between administration, operation, and quality control;
- c. Resumes of the education and experience of key personnel;
- d. A floor plan of the main facility and all branch offices indicating location of the equipment used for testing portable fire extinguishers;

e. A list of all equipment used to test portable fire extinguishers, identified by manufacturer, model number and serial number; detailed plans and specifications shall be submitted on any testing equipment fabricated by the applicant;

f. Procedures for selecting, receiving, storage, handling, and shipping of test specimens;

g. Test standards and procedures most frequently used;

h. Method and frequency of test equipment calibration;

i. Procedure for safekeeping of records and files;

j. Copies of all data sheets and test report forms;

k. Facsimiles of all contracts executed between the testing laboratory and portable extinguisher clients;

l. Procedure for periodic updating of the report;

m. Method of distributing test reports and certifications, including an indication of who may obtain copies of the final reports and how the reports may be obtained.

n. A copy of the laboratory's partnership agreement, if a partnership, or of the articles of incorporation, if a corporation, and a copy of any by-laws;

o. A list of all the portable fire extinguishers presently listed by the testing laboratory showing the manufacturer and the model number;

p. Copies of the test reports on all listed portable extinguishers which must be in sufficient detail to provide for complete verification and evaluation of the operations and objectives, and must include the signature of personnel performing the test and must also include the name of the supervisory engineer;

q. Whether the applicant testing laboratory has been recognized as a "nationally recognized testing laboratory" by any other state or by an organized, voluntary recognized organization such as the National Voluntary Laboratory Association Program and whether recognition by any other state or organization has been denied;

r. How long the applicant testing laboratory has tested portable extinguishers;

s. A notarized statement of independence which shall state that, with reference to the laboratory's testing of portable extinguishers.

i. There are no managerial affiliations with any producer, supplier, or vendor.

ii. Changes in any major test equipment.

iii. Establishment of a new branch office or facility at which portable fire extinguishers are to be tested.

iv. Changes in principal officers, key supervisory personnel, or key testing personnel in the company.

C. This office approves Underwriters Laboratories, Inc., Factory Mutual Research Corporation and the United States Testing Company, Inc. as nationally recognized testing laboratories for the purpose of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1340 (June 2000).

§3057. Equipment and Facilities

A. Each certified business location shall be required to possess the equipment, tools, NFPA codes, standards and manufacturers UL listed installation and service manuals

necessary to properly plan, inspect, install, maintain or service the systems or equipment for which it is certified. Fire protection fire sprinkler contractors shall have such equipment, tools NFPA codes, standards and manuals available at each of its operating locations. If such work is performed from a vehicle, then the vehicle shall be required to possess the necessary equipment, tools, NFPA codes, standards and manuals. At a minimum, all Class A firms shall have the necessary equipment to perform a recharge, six-year maintenance and hydrostatic test on low pressure non DOT dry chemical cylinders. All Class D and D-1 firms shall have manufacturer approved smoke detector sensitivity/calibration testing equipment or have access to such equipment through contract to another firm.

B. The State Fire Marshal or his representative may inspect a business's physical locations or vehicle(s) to ensure the proper equipment, tools, NFPA codes, standards and manufacturers UL listed installation and service manuals are possessed by the business.

C. The State Fire Marshal or his representative may require that a business or its employee(s) demonstrate a proficiency to use the necessary equipment to properly plan, inspect, install, maintain or service fire protection sprinkler systems/equipment, portable fire extinguishers, fixed fire extinguishing systems/equipment and fire detection and alarm systems/equipment. Proficiency shall be deemed to be achieved if the system or equipment complies with the applicable NFPA code or standard and/or manufacturers specifications.

D. For those businesses or their employee(s) which do not possess the proper equipment, tools and manuals or who fail to demonstrate the ability to properly perform the required work, then an order of correction shall be made to the contractor or his employee to obtain the required equipment, tools, NFPA codes, standards or manual or to obtain additional training within a 30-day period. Another inspection shall be conducted by the State Fire Marshal or his representative to verify compliance with the order of correction. Good cause must be shown if proficiency is not shown or the required equipment, tools, NFPA codes, standards or manuals are not obtained by the time of the second inspection. Additional time may be granted for good cause. If good cause is not shown, then administrative action may be pursued.

E. The office may specifically enumerate required equipment at a later date should it be deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1340 (June 2000).

§3059. Plan Review

A. Plans for designing or installing fixed fire extinguishing systems, fire protection sprinkler systems and/or fire detection and alarm systems must be done in accordance with R.S. 40:1574 Parts A and B. This procedure is not required for plans that will go in sites, such as offshore drilling platforms that are outside the three mile limit of the state's jurisdiction. For the purpose of computing the Fire Marshal plan review fees, devices shall be defined as follows.

1. For fixed fire extinguishing systems (Halon, CO₂, etc.): the distribution nozzles and the automatic detectors shall be considered as devices.

2. For fire protection sprinkler systems: each sprinkler head per floor shall be considered.

3. For fire detection and alarm systems: the number of floors per building shall be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1341 (June 2000).

§3061. Advisory Committee

A. The State Fire Marshal may create an advisory committee to assist him or his representative to create new rules or modify existing rules as necessary to reflect changes or new trends in the industry. Associations requested to participate on the committee shall nominate the members to attend. This committee is to be a volunteer committee. No stipends or mileage will be paid to committee members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1341 (June 2000).

§3063. Electrical Contractors

A. All electrical contractors who have met all requirements and passed a prescribed written examination based upon National Fire Protection Association (NFPA) Code 70, the National Electrical Code, that has been given either by a recognized political subdivision of the state of Louisiana or by the State Licensing Board for Contractors, shall be authorized to install fire detection and alarm components or interconnected smoke detectors in accordance with manufacturer's specifications and applicable National Fire Protection Association (NFPA) codes which are listed in §3053 of these rules.

B. The planning, certifying, inspecting, maintenance and servicing of a fire detection and alarm system shall be performed only by a fire detection and alarm firm that is certified, and its employees licensed with the Office of the State Fire Marshal to perform such work.

C. Electrical contractors shall be limited to the installation of wiring, conduit raceways, and/or devices for fire detection and alarm systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1341 (June 2000).

§3065. Compressed Gas

A. Subject to the requirements contained in Part B below, persons who engage solely in the activity of filling compressed gas cylinders with gases such as CO₂, pursuant to a contract with a firm which is certified by the Office of State Fire Marshal to plan, certify, inspect, install and/or service, fire protection equipment or systems shall be exempt from the licensing requirements contained in R.S. 40:1651, et seq.

B. A person meets the qualifications to be exempt from R.S. 40:1651, et seq. if he/she fills compressed gas cylinders, has a United States (U.S.) Department of Transportation (DOT) certificate to fill these compressed gas cylinders (only if required by DOT) and does not plan,

certify, inspect, install, maintain and/or service any fire protection equipment and/or systems other than to fill the fire extinguishing cylinders with compressed gas pursuant to a contract with a firm certified by the Office of the State Fire Marshal to plan, certify, inspect, install and/or service fire protection equipment and/or systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1341 (June 2000).

§3067 Miscellaneous Provisions

A. Marking of vehicles Ninety days after the effective date of these rules, all vehicles owned or operated by fire protection sprinkler contractors as defined by R.S. 40:1625(4)(a) and firms as defined by R.S. 40:1652(1) or their employees, used for regulated activities for which the business is certificated, or permitted, shall permanently inscribe, paint, stencil or affix by magnetic means the business name and business certificate or permit number on such vehicles. Such markings shall be a minimum 2 1/2 inches in height and not less than 1/4 inch in width. Letters and numbers shall be on a contrasting background and be conspicuously seen from the outside of the vehicle. For fire protection sprinkler contractors with multiple qualifying persons, only one permit number is required.

B. Restrictions

1. Certificate holders, licensees and permittees are not agents or representatives of the state of Louisiana, the Department of Public Safety or the Office of the State Fire Marshal. No claims or inferences of such shall be made.

2. A certificate, license or permit does not authorize anyone to enforce these rules or to enter any building without the owners permission or to plan, certify, service, inspect, install or maintain fire protection equipment and/or systems or fire protection sprinkler systems and/or equipment without the owner's permission.

3. Certificate holders, licensees and permittees shall not permit the use of their certificate, licenses or permit by other businesses, persons or employees.

4. A certificate holder, licensee or permittee shall not perform any activity relating to portable fire extinguishers, fixed fire extinguishing equipment/system, fire detection and alarm equipment/systems or fire protection sprinkler systems unless employed by and within the course and scope of that employment with a business regulated by the provisions of R.S. 40:1625 et seq. or R.S. 40:1651 et seq.

5. A person shall not perform any act for which a certificate, license or permit is required unless:

- a. first being certified, licensed or permitted to perform such acts; and
- b. is employed by a business certified to perform those acts; and
- c. is performing those acts for the certified business by whom he is employed.

6. An apprentice, as defined in LAC 55:V.3013, shall not perform any activity regulated by R.S. 40:1651 et seq., unless employed by a certified firm, supervised by a licensee authorized to perform such act or acts and both the apprentice and licensee are employed by the same certified firm.

C. Multiple Names. A business which uses multiple names must apply for a separate certificate of registration if each named business has a separate tax number. All Doing business as@names shall be registered with this office at the time of application.

D. Required Inspection

1. The following shall be the building owners responsibility.

a. Portable fire extinguishers shall be inspected and certified annually by a certified firm.

b. Fixed fire extinguishing systems shall be inspected and certified at a minimum annually by a certified firm.

c. Clean Agent Gas (Halon 1301 Replacement) fixed fire extinguishing systems shall be inspected and certified at a minimum every six months by a certified firm.

d. Kitchen fixed fire extinguishing systems shall be inspected and certified at a minimum every six months by a certified firm.

e. Fire alarm and detection systems shall be inspected and certified at a minimum annually by a certified firm.

f. All non-required and non-conforming systems/equipment shall be inspected and certified at a minimum annually by a certified firm.

g. Fire protection sprinkler systems/equipment shall be inspected and certified at a minimum annually by a certified fire protection sprinkler contractor. The certified firm shall not be responsible for more frequent inspections as required by the applicable engineered specifications, manufacturers specifications or per the inspection, testing and maintenance chapters as set forth in the applicable NFPA codes and standards unless under contract to perform such.

E. Service Invoices and Inspection Reports. All service invoices or inspection reports shall reflect the inspection, installation, maintenance, or service performed, date of service, the technician who did the service, the manufacturer of the equipment/system and if applicable, the serial number of the equipment/system if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of State Fire Marshal, LR 17:273 (March 1991), LR 26:1342 (June 2000).

Nancy Van Nortwick
Under Secretary

0006 074

RULE

Social Services, Department of Office of Community Services

Freezing Reimbursable Rates for Residential Facilities (LAC 67:V.3503)

In accordance with the Louisiana Administrative Code, Title 67, Part V, Subpart 5, Foster Care, the adopted the rule, §3503 entitled "Reimbursement Rates for Residential Facilities" to add D.

Title 67
SOCIAL SERVICES
Part V. Office of Community Services
Subpart 5. Foster Care
Chapter 35. Payments, Reimbursables and Expenditures

§3503. Reimbursement Rates for Residential Facilities

* * *

A. 1. - C. ...
D. For rates issued for the 1999/2000 rate year, the Department will freeze the rates at the 1998/1999 amount.

* * *

AUTHORITY NOTE: Promulgated in accordance with R. S. 15:1084.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 25:1609 (September 1999), LR 26:24 (January 2000), LR 26:1342 (June 2000).

J. Renea Austin-Duffin
Secretary

0006#079

RULE

Department of Social Services
Office of Family Support

Family Independence Temporary Assistance Program
(FITAP) Application, Eligibility, and Furnishing
Assistance (LAC 67:III.1223, 1225, and 1229)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1223. Citizenship

A.1. - 8.d. ...

9. an alien child of a battered parent or the alien parent of a battered child as described in 8 above.

B. Time-Limited Benefits. A qualified alien who enters the United States on or after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

B. 1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), LR 26:000 (June 2000)

§1225. Enumeration

A. Each applicant for, or recipient of, FITAP is required to furnish a Social Security number or to apply for a Social

Security number if such number has not been issued or is not known.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), LR 26:000 (June 2000)

§1229. Income

A. - E. ...

F. Income and Resources of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income and resources of the sponsor and the sponsor's spouse shall be considered except as follows in §1229.F.a.-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence Exception. If an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special rule for battered spouse and child. If an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §1229.F.1. shall not apply during a 12-month period. After a 12-month period, the batterer's income and resources shall not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the Department's opinion, a substantial connection to the need for benefits.

2. The agency has opted not to apply the deeming rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A aliens.

G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), LR 26:000 (June 2000)

J. Renea Austin-Duffin
Secretary

0006#081

RULE

Department of Social Services
Office of Family Support

FIND Work Program Support Services
(LAC 67:III.2907, 2909 and 2913)

The Department of Social Services, Office of Family Support, has amended LAC 67: III, Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work".

In order to better facilitate the participant's entry into the workplace, the agency has increased the maximum allowed for supportive services to \$600 per participant per state fiscal year. For participants who become ineligible for cash assistance due to earned income, the agency will allow a transportation payment of \$60 per month, and a payment for other supportive services not to exceed a combined total of \$200.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Family Independence Work Program (FIND Work)

Chapter 29. Organization

Subchapter B. Participation

§2907. Individual Participation Requirements

A. ...

1. A single parent/caretaker who is personally providing care for a child under age one is exempt. This exemption is limited to a total of twelve months per single parent/caretaker. However, if the single parent/caretaker is under age 18, has a minor child at least 12 weeks of age, and does not have a high school diploma or equivalent, he must participate in secondary/GED activities or a FIND Work approved activity.

A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998), LR 25:2455 (December 1999), LR 26:1344 (June 2000).

§2909. Failure to Participate

A. - C.10. ...

11. discrimination based on race, color, religion, sex, age, national origin, etc.;

12. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193; R.S. 46:231, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992), LR 19:504 (April 1993), LR 23:451 (April 1997), LR 24:353 (February 1998), LR 25:2455 (December 1999), LR 26:1344 (June 2000).

Subchapter C. Activities and Services

§2913. Support Services

A.1. - 2.a. ...

b. Participants who become ineligible for cash assistance due to earned income are eligible for a transportation payment of \$60 per month beginning with the first month of FITAP ineligibility and continuing through the twelfth month of ineligibility or through the last month of employment, whichever comes first.

3. Other Supportive Services

a. ...

b. Payments not to exceed a combined total of \$600 per state fiscal year may be made for certain costs deemed

necessary such as eyeglasses, hearing aids and other small medical appliances, uniforms/clothing, tools and training materials, medical exams and drug tests required for employment and training that are not provided by Medicaid or any other resource, placement test fees and other course pre-requisite costs, safety equipment and transportation-related expenses.

i. Participants who become ineligible for cash assistance due to earned income are eligible for other supportive service payments not to exceed a combined total of \$200 beginning with the first month of FITAP ineligibility and continuing through the twelfth month of ineligibility or through the last month of employment, whichever comes first.

c. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), LR 24:356 (February 1998), LR 24:1135 (June 1998), LR 25:526 (March 1999), LR 25:2456 (December 1999), LR 26:1344 (June 2000).

J. Renea Austin-Duffin
Secretary

0006#080

RULE

Department of Social Services
Office of Family Support

Support Enforcement Services CChild Support
Application Fee (LAC 67:III.2521)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Due to a change in the method of reimbursement for program costs to District Attorneys' offices contracted to provide child support services, all application fees will now be retained by SES. Under previous contracts, some offices of the District Attorney retained the nonfederal share of application fees collected. Language in §2521 concerning this matter has, therefore, been deleted.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter E. Individuals Not Otherwise Eligible

§2521. Child Support Application Fee

A. SES will charge an application fee of \$25 to each individual who applies for services and does not receive FITAP, MEDICAID, or IV-E Foster Care. A fee is not required if an applicant reapplies for child support through

SES within six months after a case is closed, unless the case was closed at the applicant's request or for failure to cooperate.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33 and 45 CFR 302.51.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), amended by the Department of Social

Services, Office of Family Support, LR 24:957 (May 1998), LR 26:1344 (June 2000).

J. Renea Austin-Duffin
Secretary

0006#082

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Effecting and Reporting Actions

The State Civil Service Commission will hold a public hearing on July 12, 2000 to consider the following Rule proposals. The hearing will begin at 9:00 a.m. and be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The Rules below will be considered for adoption at the meeting. Individuals who wish to comment on these proposals may do so at the public hearing or by writing to the director of State Civil Service at P.O. Box 94111, Baton Rouge, LA 70804-9111. If special accommodations are needed, please notify us prior to this meeting.

The Department of Civil Service is altering the method used to review personnel actions for compliance with the provisions of Article X of the Constitution, the Civil Service Rules, the Uniform Classification and Pay Plans and the policies and procedures issued by the director. The new method will decentralize both the processing of personnel and position actions and the maintenance of associated documentation. These alterations will allow agencies to effect most personnel and position actions without obtaining prior approval from the director. Civil Service review of such actions will occur after their effective date. The requirement for all personnel actions to be taken in accordance with the provisions of Article X of the Constitution, the Civil Service Rules, the Uniform Classification and Pay Plans and the policies and procedures issued by the director will remain unchanged.

Chapter 15. Effecting and Reporting Actions

15.1 Effecting and Recording Actions

a) Appointing authorities shall take actions in accordance with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

b) The director shall prescribe the records which appointing authorities must maintain to provide adequate documentation of personnel and position actions, payroll and attendance, applicant flow and such other information as may be specified. The director shall prescribe the retention schedule for such records.

c) Each appointing authority shall establish adequate internal controls to prevent fraud and to ensure that actions are effected in compliance with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

Explanation

Section a) authorizes appointing authorities to effect actions without the prior approval of the director, provided that those actions fully comply with the provisions of Article X, the Civil Service Rules, the Uniform Classification and

Pay Plans, and the policies and procedures issued by the director.

Section b) requires the director to specify the records agencies must maintain and the length of time they must maintain them.

Section c) requires appointing authorities to maintain a system of internal control which prevents fraud and ensures that all actions taken fully comply with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

15.2. ...

15.2.1. ...

15.3 Reporting and Certifying Actions

a) The director shall inform the appointing authorities which actions and status changes must be reported to the Department of Civil Service. These actions and status changes must be reported no later than 30 days after their effective date.

b) The appointing authority or his designated agent shall certify for each action effected under his authority that the action complies with the requirements of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director. Certification by the appointing authority shall constitute authorization for payment of compensation to an employee at the rate specified as long as the employee remains in a pay status. The appointing authority shall notify the employee subject to such actions.

Explanation

Changes to Section a) eliminate language that requires agencies to report actions by means of paper forms, since decentralization will enable most agencies to report actions electronically. Actions must be reported no later than 30 days after their effective date.

Changes to Section b) eliminate the requirement for pre-approval from the director in order to pay an employee. Instead, appointing authorities are required to certify that their personnel actions comply with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans and the policies and procedures issued by the director. Such certification by the appointing authority will authorize payments to employees. Appointing authorities must continue to notify employees of any actions affecting their pay or status.

15.4 Required Director's Approval of Actions

The director may require an appointing authority to obtain his approval of certain actions before they may be effected.

Explanation

Changes to Rule 15.4 clarify the director's authority to require an appointing authority to obtain his prior approval before the appointing authority may take certain types of actions.

15.5. ...

15.6 Review of Records

The director may examine departmental records to determine whether there is a violation of any provision of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director. The appointing authority shall provide copies or originals of any such records upon the director's request and within the time specified by the director.

Explanation

These changes clarify the director's right to examine an agency's personnel related records to assess compliance with Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director. This amendment also specifies the appointing authority's obligation to provide the director with personnel records upon his request.

15.7 Actions in Violation of the Rules

If the director finds that any action has been effected in violation of the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director, he may take any corrective action he deems appropriate or may direct the appointing authority to take such corrective action. Corrective actions may include, but are not limited to, the rescinding of any actions and associated compensation, or restitution to the employee.

Explanation

Changes to this Rule clarify the director's authority to correct or to instruct an appointing authority to correct any action found to violate Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director. The amended Rule also gives some examples of corrections that may be made.

- 15.8. ...
- 15.9 a) ...
- 15.9 b) ...
- 15.9 c) ...
- 1. ...
- 2. ...
- 3. Files, statements, reports, correspondence and other data in connection with and related to investigations of violations of the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director, when such inquiries are conducted by the commission or the director, except as permitted under Rule 16.3 c).
- 4. ...
- 5. ...
- 6. ...

Explanation

The change to this Rule allows the director to share the findings in an investigation with other appropriate officials as listed in Rule 16.3 c), such as the legislative auditor, etc.

16.3 Investigations by the Director

- a) ...
- b) Upon receipt of a request for investigation, the director or his designee shall conduct such investigation as he deems warranted based on the information contained in the request for investigation.
- c) Following an investigation, the director may issue a letter of admonishment, take corrective action, order an appointing authority to take corrective action, impose special

reporting requirements on an appointing authority, revoke authority previously granted by the director, require an appointing authority to obtain prior approval of personnel actions, file formal charges under Rule 16.4, report the facts disclosed in the investigation to the legislative auditor, attorney general, district attorney, or other officers, and/or take or order any other action deemed appropriate.

d) Corrective action may include, but is not limited to, rescinding an action and associated compensation, and the effecting of back-pay to an employee.

e) Corrective action which reduces an employee's pay, lowers an employee's pay grade, results in loss of permanent status, or nullifies an appointment, shall not become effective until the employee has been given notice of the reasons for the action, and a reasonable opportunity to respond.

Explanation

The changes to Rule 16.3 b) and the addition of 16.3 c) expand the director's choice of remedies for violations beyond the current single option of filing formal charges under Rule 16.4. The options provided by the amended Rule include issuing letters of admonishment, taking corrective action, ordering an appointing authority to take corrective action, imposing special reporting requirements on an appointing authority, revoking authority previously granted, requiring prior approval of personnel actions, reporting the facts disclosed in the investigation to the legislative auditor, attorney general, district attorney, or other officers, and/or taking or ordering any other action deemed appropriate.

The proposed Rule 16.3 d) explicitly states that corrective actions the director may take or may order an appointing authority to take can include the rescinding of actions and associated compensation.

The proposed Rule 16.3 e) specifies the requirements of due process which must be afforded an employee who is going to suffer a loss of pay or appointment as a result of a corrective action.

14.1 Prohibited Activities

- a) ...
- h) ...
- i) No employee shall receive any compensation except as authorized by or pursuant to the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.
- j) ...
- p) ...
- q) No person shall fail to comply with any order or directive issued by the director pursuant to the authority granted by the Rules.
- r) No person shall fail to comply with any agency policy or procedure when the Rules require either the director or the commission to specifically approve such policy or procedure, and where such approval has been obtained.
- s) No person shall fail to comply with any delegation agreement.

Explanation

The change to Rule 14.1 i) eliminates the requirement for the director's prior approval of compensation to employees, but preserves the requirement that any compensation of

employees must comply with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

Rule 14.1 q) makes failure to comply with directives issued by the director a violation of Civil Service Rules. This would include failure to take corrective action as ordered by the director to remedy actions found to have been effected in violation of the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

Rule 14.1 r) makes failure to follow agency policies formally approved by the director or the commission a violation of Civil Service Rules. This Rule applies to agency policies which require either director or commission approval such as dual career ladders, rewards and recognition programs, etc. It does not apply to agency policies which do not require approval by the director or the commission, such as internal grievance procedures, leave policies, etc.

Rule 14.1 s) makes failure to comply with the terms of a delegation agreement a violation of Civil Service Rules.

6.13 Certification and Payment

a) No employee shall receive any compensation except as authorized by or pursuant to the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director.

b) If payments to an employee are found to have been made in violation of the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director, the director may take any corrective action he deems appropriate or may direct the appointing authority to take such corrective action. Corrective actions may include, but are not limited to, the rescinding of any actions and associated compensation, or restitution to the employee.

Explanation

The amended Rule eliminates the requirement for the director's pre-approval of personnel actions effecting employee pay. It standardizes the language that requires all actions to be taken in compliance with the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the director. It standardizes the language describing the director's authority to take or to direct appointing authorities to take corrective action. It provides some examples of corrective actions which may be taken.

8.15 Transfer

a) Subject to the provisions of Subsection d) hereof, a permanent or probationary employee may be voluntarily transferred from any position in the classified service in one department to any position in the classified service for which he is qualified in another department upon the recommendation of the appointing authority of the receiving department, provided the employee meets the qualification requirements of the job to which he is transferring and has met Civil Service requirements for testing and competition.

Explanation

The amended Rule eliminates the requirement for the director's pre-approval of employee transfers from one department to another.

Temporary Inter-Departmental Assignments

a) Upon agreement between departments, a permanent employee may be assigned to a classified position in another department for a period not to exceed one year, provided the employee meets the qualification requirements of the job to which he is being assigned and has met Civil Service requirements for testing and competition.

b) ...

c) ...

d) Either participating department may terminate the interdepartmental assignment of an employee at any time, with proper notification to the director. The director may terminate such assignment if he determines that it violates the provisions of Article X, the Civil Service Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the director.

e) Notwithstanding any other provision of these Rules, a temporary inter-departmental assignment may not be continued beyond one year without the director's approval.

Explanation

This amendment removes the requirement for the director's prior approval of temporary inter-departmental assignments of up to one year. It retains the requirement to obtain the director's approval before extending such a temporary assignment beyond one year.

8.16 a) Reassignment

An appointing authority may reassign any probationary or permanent employee to a position with a different job title that has the same minimum entrance rate of pay, provided the employee meets the qualification requirements of the job to which he is being assigned and has met Civil Service requirements for testing and competition.

Explanation

This amendment removes the requirement to obtain the director's approval prior to laterally reassigning an employee.

8.16 c) Change in Duty Station

An appointing authority may change the duty station of a permanent employee from one geographical area to another. An appointing authority may change the duty station of a provisional or probationary employee from one geographical area to another in accordance with guidelines specified by the director to ensure observance of appropriate competition requirements.

Explanation

This amendment removes the requirement to obtain the director's approval prior to changing the duty station of a provisional or probationary employee, provided such a change does not circumvent competition.

Leave of Absence Without Pay

a) An appointing authority may extend leave of absence without pay to an employee, provided that such leave shall not prolong the period of the employee's appointment.

b) Abolish effective October 1, 2000.

Explanation

The changes to Rule 11.27 a) and b) eliminate the requirement to obtain the director's approval to extend leave without pay to an employee for more than one year. It preserves the prohibition against granting such leave to extend the length of an employee's appointment.

9.2 Permanent Appointment Action Following Probationary Period

a) Permanent appointment of a probationary employee shall begin upon certification by the appointing authority that the employee has met the required standard of work during the probationary period.

b) A permanent appointment must be reported to the director in the manner he prescribes.

Explanation

The changes to Rule 9.2 eliminate language requiring the use of the "Standard Form 1" to report actions to the director. The Standard Form 1 will be replaced. Some agencies will report such actions electronically, others will be instructed in the use of a new paper form.

1.1.2 "Action" means a personnel transaction effecting a change to a person's employment or to a position.

1.24.03 "Personnel Action" means a personnel transaction effecting a change to a person's employment or to a position.

Explanation

These definitions are being added to clarify that the use of the terms "action" or "personnel action" in these Rules may refer to both transactions affecting an employee and/or transactions affecting positions.

7.4 Minimum Qualifications

a) The director shall establish minimum qualifications for each job in the classified service. These minimum qualifications shall be included as part of the job specification for each classified job. Appointees to any classified job must meet the minimum qualifications established for that job unless exempted under provisions of Rules 7.9a) 2 c), 7.9 a) 2 d), 8.16 d), 8.18, or 5.8. The director may order the removal or separation of any employee found to have been appointed who does not meet the minimum qualifications.

Explanation

Currently, the director sets minimum qualifications for all jobs in the classified service, not just those which have examinations. Even when the term "examinations" is used in its broadest sense to include experience and training ratings as well as written tests, the current wording is misleading and subject to misinterpretation. The proposed rule provides clarification and codification of current practice.

7.5 Rejection of Application

a) The director may reject the application of any person who

1. ...

2. ...

3. Does not meet the minimum qualifications established for the job for which he or she applied.

4. ...

Explanation

This change is needed to clarify the wording so it does not appear to limit rejecting the application to jobs using tests.

Fiscal Impact Summary

The only costs associated with implementing these Rules are the costs of publishing them which total \$2040. There are no savings to state or local governmental units. There will be no effect on revenue collections of state or local governmental units. There will be no cost and/or economic benefit to directly affected persons or non-governmental groups. There will be no effect on competition and employment.

Family Impact Statement

Submitted in accordance with R.S. 49:972

The proposed Civil Service Rule changes will have no impact upon:

(1) The 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.

(3) The effect on the functioning of the family.

(4) The effect on family earnings and family budget.

(5) The effect on the behavior and personal responsibility of children.

(6) The ability of the family or a local government to perform the function as contained in the proposed Rule.

Allen H. Reynolds
Director

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Performance Planning and Review

The State Civil Service Commission will hold a public hearing on July 12, 2000 to consider the following Rule proposals. The hearing will begin at 9:00 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The Rules below will be considered for adoption at the meeting. Individuals who wish to comment on these proposals may do so at the public hearing or by writing to the director of State Civil Service at P.O. Box 94111, Baton Rouge, LA 70804-9111. If special accommodations are needed, please notify us prior to this meeting.

The following will be considered at the meeting: amend the following Rules in Chapter 10, Performance Planning and Review: 10.1, 10.2, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14, 10.15; add Rule 10.18; repeal Rule 10.16; amend the following Rule in Chapter 13, Appeals and Hearings: Rule 13.10 (a), (b), and (c); and repeal Rule 13.10 (d), (e), (f), (g), (h), (I), (j), (k), (l), (m).

Chapter 10. Performance Planning And Review

10.1. Performance Planning and Review System;
Required Components

(a) Each department shall use a performance planning and review system that complies with this Chapter and consists of at least the following components:

1. a performance planning and review form approved by the director;

2. a five-level rating system; and

3. a performance planning and review training manual that is reasonably accessible to rating supervisors.

(b) A department may opt to make variations to the PPR form, system, or instructions with prior written approval from the director.

(c) All classified employees are covered by this Chapter.

10.2. Rating Supervisor.

The appointing authority shall designate a rating supervisor for each employee. Generally, the rating supervisor should be the person who, in the appointing authority's judgment, is in the best position to observe and document the employee's performance. Failure to designate a rating supervisor or to rate or plan shall be a violation of these Rules.

10.3. Performance Factors to be Rated

(a) Each employee shall be rated on the following performance factors (or their equivalents): work product; dependability; cooperativeness; adaptability; communication; and daily decision making/problem solving.

(b) Additionally, each supervisory employee shall be rated on the following performance factors (or their equivalents): work group management and leadership; and performance planning and review.

(c) An employee may be rated on any additional performance factor(s) that the appointing authority considers applicable to the employee's job.

10.4. Ratings

(a) The rating supervisor shall rate the employee on each applicable performance factor, using the following ratings (or their equivalents) and points:

Outstanding **C**5 points

Exceeds Requirements **C**4 points

Meets Requirements **C**3 points

Needs Improvement **C**2 points

Poor **C**1 point

(b) The performance factor ratings shall then be averaged and the employee's overall rating or re-rating shall be assigned based upon the following scale:

Outstanding **C**4.50 - 5.00

Exceeds Requirements **C**3.50 - 4.49

Meets Requirements **C**2.50 - 3.49

Needs Improvement **C**1.50 - 2.49

Poor **C**1.00 - 1.49

(c) Ratings of "Un-rated" shall be created by default when the employee does not receive an official rating. Ratings of "Un-rated" shall be indicated on the final overall rating or re-rating form by the rating supervisor, reviewer, or human resource officer. Employees shall be notified when a rating or re-rating of "Un-rated" has been given as an official overall rating or re-rating. Ratings of "Un-rated" shall be reported on the annual report to the director of Civil Service in such manner as the director requires.

10.5. Performance Planning Session

(a) The rating supervisor shall conduct a performance planning session at least once per rating period, during which the rating supervisor shall discuss with the employee:

1. the factors upon which the employee will be rated and

2. the performance that will be expected during the coming rating period.

(b) The rating supervisor shall provide written expectations for all factors upon which the employee will be rated.

(c) The rating supervisor and the employee shall sign and date the performance planning form to document the session. The employee shall be given a copy of the planning

document.

(d) A performance planning session shall be conducted no later than 30 calendar days after:

1. the appointment of a new employee;

2. or the anniversary date of a current employee;

3. or the movement of an employee into a position having a different position number and significantly different duties.

(e) A performance planning session may be conducted when an employee gets a new rating supervisor or when performance expectations change. Additional performance planning sessions may also be conducted as the rating supervisor deems appropriate.

10.6. Rating Session

(a) To create an official rating, the rating supervisor shall:

1. sign and date the completed document,

2. discuss the rating with the employee,

3. provide documentation to support any factor rated "Needs Improvement" or "Poor;"

4. present the form to the employee to be signed and dated, and

5. give the employee a copy of the completed form with his or her official overall rating noted.

(b) For a new employee, the rating session shall take place within the 60 calendar days before or on the employee's first anniversary date as defined in Rule 6.14(b).

(c) For a current employee, the rating session shall take place within the 60 calendar days before or on the employee's anniversary date.

(d) For employees who are not present during the 60 day time frame for any reason, a copy of the completed document may be mailed to the employee on or before the employee's anniversary date.

10.7. Re-ratings.

(a) An employee whose official OVERALL rating is "Needs Improvement" or "Poor" shall be re-rated. The re-rating shall be due on the date that is 6 months after the employee's anniversary date. The re-rating may be given up to 60 calendar days prior to or on the re-rating due date.

(b) Employees who are re-rated as "Meets Requirements" or better may be considered for a merit increase, promotion, upward detail, or permanent status as of the date of the official re-rating.

(c) Employees may receive unofficial reviews as the supervisor deems necessary to provide feedback and update expectations.

10.8. Creating an Official Rating or Re-Rating

A rating or re-rating that complies with Rules 10.6 and 10.7 becomes official when a copy of the performance planning and review form is given to the employee. A copy is considered given on the seventh day after it has been mailed.

10.9. Employee's Refusal to Sign Form

An employee cannot prevent a planning session, rating or re-rating from becoming official by refusing to sign the performance planning and review form. If an employee refuses to sign any part of the form, the rating supervisor shall note on the form that the employee refused to sign, and the date of the planning or rating session.

10.10. Effects of "Needs Improvement" or "Poor" Rating

(a) A rating or re-rating of "Needs Improvement" or "Poor" is not a disciplinary action.

(b) Any employee whose official overall rating or re-rating is "Needs Improvement" or "Poor" shall not receive a merit increase, a promotion or permanent status. An employee whose official overall rating or re-rating is "Needs Improvement" or "Poor" shall not be detailed to a higher level position except as approved in advance by the director of Civil Service.

(c) An employee whose official overall rating or re-rating is "Needs Improvement" or "Poor" may be separated or disciplined in accordance with the Rules applicable to the employee's status.

10.11 Effects of Absence of Official Rating or Re-rating.

(a) An employee who is not rated in accordance with the provisions of this Chapter shall have an official rating of "Un-rated" on the day after the employee's anniversary date.

(b) An employee who is not re-rated in accordance with the provisions of this Chapter shall have an official re-rating of "Un-rated" on the date that falls 6 months after the employee's anniversary date.

10.12. Record Keeping and Reporting Requirements

(a) Each completed performance planning and review form shall be kept in the agency Human Resource office or other designated, secure location not accessible to the public. Completed forms must be available to the Department of Civil Service for auditing purposes, to other agencies of the state of Louisiana for purposes of checking employment references and to the employee upon request.

(b) For each employee with an official overall rating or re-rating of "Needs Improvement" or "Poor" the department shall promptly provide a copy of page one of the performance planning and review form to the director of Civil Service.

(c) By July 31 of each year, each appointing authority shall report to the director of Civil Service, in such form as the director prescribes, information about ratings given during the previous year ending June 30.

(d) The director of Civil Service may require more frequent reporting as needed.

10.13. Review of Ratings

(a) A permanent employee who disagrees with any rating has a right to have the rating reviewed by the appointing authority or his/her designee. For purposes of this Rule, a "rating" includes an official rating or re-rating or a rating on any factor. The designated reviewer is the only person within the employing agency who may change an official rating.

(b) A written request for review must be postmarked or received in the employing agency's Human Resource office no later than 10 calendar days after the employee's anniversary date or, for a re-rating, no later than 10 calendar days after the day that falls six months after the employee's anniversary date. In the request for review, the employee must explain why he/she believes a higher rating is warranted and must attach whatever supporting documentation he or she wants the reviewer to consider.

(c) If the request for review is timely, the reviewer must review the rating, the request for review, and any

documentation supporting either. The reviewer must also discuss the contested rating(s) with the employee and the rating supervisor.

(d) The reviewer shall notify the employee and the rating supervisor, in writing, of the results of the review. Insofar as practicable, this notification shall be provided within 30 calendar days following the date the request for review was received in the Human Resource office. Any change in rating shall be retroactive to the anniversary date or in the case of a contested re-rating, on the day that falls six months after the employee's anniversary date.

(e) The initial PPR form, the request for review, the reviewer's response, and all supporting documentation shall be maintained in the employee's PPR file.

10.14. Appeal to the Director of Civil Service.

(a) A permanent employee who disagrees with the reviewer's decision has a right to have his/her PPR file reviewed by the director or the director's designee.

(b) An appeal under this Rule must be postmarked or received by the director within 30 calendar days following the date the employee received a copy of the reviewer's decision. In the appeal, the employee must explain why there was no basis for the contested rating.

(c) If the appeal is timely, the director or his designee shall obtain and review the employee's PPR file. When the director or his designee finds that the agency violated any Rule in this Chapter or that there was no documented, rational basis for a rating, the director may order any contested rating changed as he deems appropriate. Insofar as practicable, the director shall provide a written decision to the employee, the rating supervisor, and the reviewer within 30 calendar days following the date the appeal was filed.

10.15. Effective Date

The revisions to this Chapter shall become effective for anniversary dates on and after November 1, 2000.

10.16. Repealed

10.17. Exceptions

For compelling reasons, the director may approve exceptions to these Rules.

10.18. Grievance Process

The agency's grievance process shall not be used to review or reconsider ratings or a procedural violation of these Rules.

Rule 13.10 Appeals To The Commission

13.10. Appeals to the Commission

Only the following persons have a right of appeal to the commission:

(a) state classified employee with permanent status who has been removed or subjected to one of the disciplinary actions listed in Rule 12.2(b).

(b) a state classified employee who has been discriminated against in any employment action or decision because of his political or religious beliefs, sex or race.

(c) a state classified employee who has been adversely affected by a violation of any provision in the Civil Service Article or of any Civil Service Rule other than a Rule in Chapter 10.

(d) - (m) Repealed

Chapter 1 Definitions

1.20.1. Repealed

Explanation

Chapter 10

If approved, the proposed changes to Chapter 10 will amend some provisions and change some formatting to enhance clarity of intent of the Rules.

Rule 10.1 requires written approval from the director for variations to the PPR system or form and clarifies that all classified employees are covered by the Chapter.

Rule 10.2 defines who the rating supervisor should be but does not mention the reviewer. It further adds the provision that failure to designate a rating supervisor or failure to rate or plan shall be a violation of these Rules.

Rule 10.3 is not significantly changed.

Rule 10.4 has been amended to change the names of two rating categories. The ratings of "Satisfactory" and "Very Good" are changed to "Meets Requirements" and "Exceeds Requirements" respectively. The term "Un-rated" is used to describe ratings that are assigned by default when the employee does not receive an official rating. This means of creating a rating of "Un-rated" will be described on the revised PPR form and reported as such on the annual report.

Rule 10.5 is more specific about the frequency of a planning session and the process of the planning session. The Rule requires employees to be given a copy of their planning session document; a direct response to numerous complaints from employees who have not received or been given documentation of a planning session. Employees have also complained that planning sessions are given within days or weeks of the rating session rather than 12 months in advance as required. Rating supervisors are given clear authority to conduct a planning session update as needed.

Rule 10.6 clarifies the process of the rating session and lengthens the window of opportunity from its current 45 days to 60 days. The anniversary date is included within the window of opportunity so that ratings given on the anniversary date are timely ratings. In addition, Rule 10.6 allows an official rating to be created with only two signatures, that of the rating supervisor and the employee. The Civil Service requirement for the rating supervisor's supervisor to sign the document has been eliminated (although agencies or individual divisions may still require a review by the rating supervisor's supervisor as an agency procedure). This change is being made to effect several things: 1) a reduction in paperwork, 2) a less burdensome timeline for completing a rating, and 3) empowerment of the rating supervisor.

Rule 10.7 clarifies the timeline for giving re-ratings. The deadline of 6 months remains the same but the earliest date for a re-rating is 60 days prior to that deadline. This gives consistency in the amount of time allotted to the window of opportunity for both a rating and a re-rating. It states when personnel actions denied due to a rating of less than "Meets Requirements" can be given. It also defines unofficial review sessions and their frequency. Supervisors are empowered to give unofficial reviews (not ratings) to provide feedback.

Rule 10.8 restates the definition of an official rating to be more specific about the need for signatures and giving the employee a copy of the rating. It states that a rating or re-rating is considered given on the seventh day after it has been mailed.

Rule 10.9 is not significantly changed.

Rule 10.10 contains revised language for clarity. The

amended version adds upward details to the list of prohibited personnel actions for an employee with a rating that is less than "Meets Requirements." The ability of the director to consider exceptions to the new restriction is delineated.

Rule 10.11 clearly states that the absence of a rating will result in an employee having a default rating of "Un-rated" on the day after the anniversary date. The absence of a re-rating will result in an employee having a default rating of "Un-rated" on the day that falls 6 months after the anniversary date.

Rule 10.12 broadens the ability of the agency to determine where completed forms will be kept but requires them to be accessible to Civil Service, other agencies on a need-to-know basis and to the employee. The amended Rule also provides that the director may require more frequent reporting as needed.

Rule 10.13 is being re-enacted in its entirety. Rule 10.13 describes a process whereby any permanent employee with any rating or re-rating, including ratings of "Un-rated", may request a review of the rating. Non-permanent employees are not extended this privilege. The process for review includes a written request from the employee. To effect the review process, the appointing authority must designate one or more reviewers within the agency.

The role of the officially designated reviewer is to look at the issues raised by the employee and to determine if those issues have merit. This Rule makes it clear the reviewer is the only person within the employing agency who may change an official rating.

The role of the reviewer has been changed for a number of reasons. Under the current Rules, the reviewer is typically the rating supervisor's supervisor. Currently the reviewer is required to sign off on a rating. When both parties work in close proximity, obtaining the required signatures is not usually difficult. However, there are numerous cases where the reviewer is physically located some distance from the work group. Some reviewers are unfamiliar with the work of the employee and some change ratings without explanation or documentation. Removing the requirement for the reviewer to sign off on a rating eliminates these concerns. An agency or supervisor may, by policy, involve the reviewer in the creation of a rating and/or the review of planning documents.

A timeline for requesting a review and for responding to that request has been added. Currently there is no time limit on when the employee can request additional review of a rating. There is currently no requirement for a written response from the reviewer and no time limit on how long the reviewer has to respond.

The result of a reviewer's decision in contested ratings was interpreted to be retroactive to the employee's anniversary date. We have codified this in the Rule to clarify the intent. When the reviewer effects a change in rating based on the review, the rating shall be retroactive to the anniversary date or in the case of a re-rating, retroactive to the day six months after the anniversary date.

Items that have caused numerous complaints, questions, legal interpretations, and confusion are addressed in this section of Chapter 10. Complaints have been received from agency personnel, both supervisors and employees, about persons other than the rating supervisor or reviewer altering

ratings after the fact. Although we have opinion from our legal counsel that this is a violation of the Rules, a Rule to specifically address this problem was deemed appropriate.

Rule 10.14 is being re-enacted in its entirety. Rule 10.14 sets up an entirely new procedure for further review of a rating that has been through the review process at the agency. Because ratings cannot be heard as appeals based on recent court decisions, a process other than the appeals process is needed. Agencies reported that having two layers of review at the agency is burdensome and time consuming, especially in situations where other personnel actions hinge on the decision of the rating reviewers. Therefore, this Rule eliminates the requirement for the appointing authority to review the reconsideration. Instead, the director of Civil Service is authorized to establish a procedure whereby ratings may have a final review at Civil Service. The conditions under which this can take place are delimited in the Rule. The director is also given authority to create a form or process, or to delegate this authority in order to efficiently and expeditiously process these requests.

Rule 10.15 defines when this revised chapter shall be effective.

Rule 10.16 is repealed.

Rule 10.17 has not changed.

Rule 10.18 states simply that the agency's grievance process is not to be used to reconsider ratings.

Rule 13.10 is being amended to codify the decision in Louisiana Department of Agriculture and Forestry v. Sumrall, 98-1587(La. 3/2/99); 728 So.2d 1254. In this case, the Louisiana Supreme Court held that the commission cannot, by Rule, expand its jurisdiction over discrimination claims not provided for in Article X of the state constitution. The Court specifically declared Civil Service Rule 13.10(e), (f), (h), (i) and (c) coupled with Rule 1.14.1 unconstitutional. Therefore, Rule 13.10 has been re-written to list those actions which the courts have concluded are within the commission's jurisdiction—removal and disciplinary cases, discrimination claims based on political or religious beliefs, sex, or race, and certain Rule violation cases.

Additionally, Rule 13.10 (c) has been amended to eliminate the right of appeal to the commission based on a violation of a Rule in Chapter 10 because a different process for policing violations of the PPR Rules has been established in Chapter 10.

Rule 1.20.1 is being repealed because the repeal was inadvertently omitted when the definition for restricted appointment (Rule 1.38.1) was amended at the February 2, 2000 Civil Service Commission meeting. The amended definition for restricted appointment ended the need for and use of multiple restricted appointments. This was due to the definition's changing from an employee's being able to serve only three months in a twelve-month period on a restricted appointment to be able to serve six months in a calendar year. Thus, the maximum cap on such temporary appointments was raised, eliminating the need for multiple restricted appointments. The repeal of Rule 1.20.1 is a necessary, related Rule change that was simply overlooked when the definition for restricted appointment was changed.

Family Impact Statement

Submitted in accordance with R.S. 49:972

The proposed Civil Service Rule changes will have no impact upon:

- (1) The 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.
- (3) The effect on the functioning of the family.
- (4) The effect on family earnings and family budget.
- (5) The effect on the behavior and personal responsibility of children.
- (6) The ability of the family or a local government to perform the function as contained in the proposed Rule.

Allen H. Reynolds
Director

0006#120

NOTICE OF INTENT

Board of Elementary and Secondary Education

Awarding of Carnegie Credit for Mathematics and English Language Arts Remediation Courses
(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). The Board of Elementary and Secondary Education at its March 2000 meeting approved revisions to Standard 2.099.00 of Bulletin 741, *Louisiana Handbook for School Administrators*, regarding the awarding of Carnegie credit for mathematics and English language arts remediation courses. Two changes to the policy include: (1) Option 2 students (eighth grade students who scored *Unsatisfactory* on eighth grade LEAP 21) are eligible to receive elective Carnegie credit for remediation when they are placed in a transitional program on a high school campus and have scored at the *Basic* achievement level on eighth grade LEAP 21; and (2) increases from one to two, the maximum number of Carnegie units earned for remedial courses by high school 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 25:2160 (November 1999), LR 26:

Standard 2.099.00:

2.099.00 In addition to completing a minimum of 23 Carnegie units of credit, the student shall also be required to pass the Graduation Exit Examination (GEE), beginning with the 1991 graduating class. This requirement shall first

apply to students classified as sophomores in 1988-89 and thereafter.

The English language arts, writing, and mathematics components of the GEE shall first be administered to students in the tenth grade.

The science and social studies components of the graduation test shall first be administered to students in the eleventh 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 2000-2001 school year, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory* achievement level on either the English Language Arts and/or the Mathematics component of the eighth grade LEAP 21 provided the student:

! participated in a transitional program on a traditional high school campus;

! successfully completed specially designed elective(s) for remediation;

! scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the *Unsatisfactory* achievement level.

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

! earning one elective credit through remediation for eighth grade LEAP 21 and or 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., August 9, 2000, 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: Awarding of Carnegie Credit for
Mathematics and English Language Arts Remediation
Courses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no increase in cost to state or local governmental units to implement this policy change. School systems will use existing personnel to teach any remedial courses.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Benefits to schools and students include increased opportunities to earn Carnegie credit and receive remediation for 8th grade Louisiana Educational Assessment Program (LEAP 21) simultaneously.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There should be no impact on competition and employment. Teachers currently employed will teach any new remedial courses.

Maylyn Langley
Deputy Superintendent
Management and Finance
0006#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Commission Bylaws (LAC 28:V.101 and 103)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with Section 952 of the Administrative Procedure Act, hereby announces its intention to revise its governing bylaws. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28
EDUCATION**

**Part V. Student Financial AssistanceC Higher Education
Loan Program**

**Chapter 1. Student Financial Assistance Commission
Bylaws**

§101. Definitions and Commission

Business of the Commission (as used in these bylaws)Cactivities on behalf of the commission, including attendance at commission meetings and commission committee meetings; presentations at legislative committee hearings on issues or bills which relate to the role, scope, mission or programs assigned the commission; presentations to the public and to federal and state officials related to the role, scope, mission, or programs assigned the commission; and participation in projects, meetings or conferences related to the role, scope, mission or programs assigned the agency; all or any of the foregoing as directed by the commission, authorized by the chairman or a committee chairman, or requested by the executive director.

Services (as used in these bylaws)Cconducting the business of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 26:

§103. Meetings

A.-B. ...

C. Compensation

1. Members of the commission shall receive per diem as compensation for their Services at the rate authorized by statute or as authorized by executive order. Members shall be reimbursed for their necessary travel expenses actually incurred in the conduct of the Business of the Commission.

2. The commission is limited to twelve meetings per year for which per diem may be drawn by commission members.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 26:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2000, to Jack L. Guinn, Executive Director, Office of Student Finance Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Commission Bylaws

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation cost associated with adopting this change includes approximately \$120 to publish the change in the *Louisiana Register* and \$5,000 annually to compensate Commission members for performing business of the Commission.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No impact on non-governmental groups is anticipated to result from this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0006#064

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)
(LAC 28:IV. 301, 501, 503, 509, 701, 703, 705,
801, 803, 805, 1701, 1703, 1901, 1903, 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS) (R.S.

17:3042.1 and R.S. 17:3048.1) to implement changes to the TOPS rules required by Acts 69, 73, 105, 110 and 133 of the First Extraordinary Session, 2000 of the Louisiana Legislature. This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Title 28

EDUCATION

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

Chapter 3. Definitions

§301. Definitions

Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Academic Year (High School) the annual academic year for high school begins with the fall term, includes the winter and spring terms and ends at the conclusion of the summer term, in that order. This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Louisiana Department of Education Bulletin 741.

* * *

Average Award Amount for those students attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the average maximum tuition, as determined by the agency, charged to full time students attending public postsecondary institutions for technical training that offer a vocational or technical education certificate or diploma program or a non-academic undergraduate degree.

* * *

Eligible Colleges or Universities Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities.

* * *

First-Time Freshman a student who enrolls for the first-time as a full-time freshman in a postsecondary school subsequent to high school graduation, and continues to be enrolled full-time on the fourteenth class day (ninth class day for Louisiana Tech). A student who begins postsecondary or university attendance in a summer session will be considered a first-time enrollee for the immediately succeeding fall term. 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.

* * *

High School Graduate for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a high school meeting the eligibility requirements of these rules or a student who has completed at least the final two years of a BESE-approved home study program and has reported such to BESE. A student who graduates at any time

during an Academic Year (High School) shall be deemed to have graduated on May 31st of that year. For the purposes of determining when a student must begin postsecondary enrollment, all students that report completion of an approved home study course to BESE during an Academic Year (High School) are deemed to have graduated on May 31st of that year.

* * *

Weighted Average Award Amount for those students attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in an academic program, the total dollar value of awards made under TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:1794 (January 2000), LR 26:688: (April 2000), LR 26:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§501. Application

A. Initial Application. All new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2000-2001, submit the 2001-2002 version of the FAFSA.

1. All applicants (except those students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition) must complete all applicable sections of the initial FAFSA.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition must complete all applicable sections of the initial FAFSA except those sections related to the income and assets of the applicant and the applicant's parents.

3. In the event of a budgetary shortfall, applicants who do not complete all sections of the FAFSA will be the first denied a TOPS award.

B. Renewal Application

1. In order to remain eligible for TOPS awards, a student must file a renewal FAFSA by the deadline set in §503 (unless the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition).

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3. In the event of a budgetary shortfall, applicants who do not file a FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. The deadline for priority consideration for state aid is published in the FAFSA's instructions and may be revised annually by the LASFAC.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 26:

§503. Application Deadlines

A. - A.4. ...

B. Final Deadline For Full Award. In order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is July 1st of the Academic Year (High School) in which a student graduates. For example, for a student graduating in the 2000-2001 Academic Year (High School), the student must submit the initial FAFSA in time for it to be received by the federal processor by July 1, 2001.

C. ...

D. Final Deadlines For Reduced Awards

1. If an application for an initial award under this Chapter is received after the deadline provided in §503.B above, but not later than sixty days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than sixty days after the deadline provided in §503.B above, but not later than one hundred twenty days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. Applications received more than 120 days after the published deadline shall not be considered.

E. The reduction of the applicant's period of eligibility for this award under §503.D above shall not be cumulative with any reduction under §509.C.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:

§509. American College Test (ACT) Testing Deadline

A. The student must take the official American College Test (including National, International, Military or Special test types) on or before the official April test date in the Academic Year (High School) in which the student graduates.

B. The student may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before the official April test date in the Academic Year (High School) in which the student graduates.

C. Final ACT Testing Deadline for Reduced Awards

1. Beginning with awards made for the 2000-2001 academic year and thereafter, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for either the TOPS Opportunity Award or for the TOPS-TECH Award, or if the student has not previously

qualified for either the TOPS Opportunity Award or for the TOPS-TECH Award, an applicant's first qualifying score on the American College Test or on the Scholastic Aptitude Test for the TOPS Performance Award or the TOPS Honors Award that is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted; however, when granting an award to an applicant whose qualifying test score is considered by the agency pursuant to the provisions of this Subparagraph, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. An applicant will not be allowed to use a test score obtained after high school graduation to upgrade a TOPS Opportunity Award to a TOPS Performance or Honors Award.

2. Students who fail to achieve an ACT or SAT qualifying score by July 1st after high school graduation shall not be considered for an award.

D. Students who graduated during the 1998-1999 school year who are otherwise qualified for a TOPS award and who obtained a qualifying score on the American College Test or the Scholastic Aptitude Test on an authorized testing date after the date of the student's graduation but prior to July 1, 1999, shall be considered to have met the requirements of §509 A and B.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:

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

§701. General Provisions

A. - D.3. ...

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at an Eligible College or University for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by LSA-R.S. 17:3048.1.H, or §503.D or §509.C.

2. The TOPS Performance Award provides a \$400 annual stipend, in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by LSA-R.S. 17:3048.1.H, or §503.D or §509.C.

3. The TOPS Honors Award provides an \$800 annual stipend, in addition to an amount equal to tuition for full-time attendance at an Eligible College or University, for a period not to exceed eight semesters, twelve quarters, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by LSA-R.S. 17:3048.1.H, or §503.D or §509.C.

4. ...

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU):

a. in an academic program receive an amount equal to the Weighted Average Award Amount, as defined in §301, plus any applicable stipend;

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the Average Award Amount, as defined in §301, plus any applicable stipend.

6.-8. ...

9. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of the TOPS Performance Award.

10. ...

11. Students enrolled and attending more than one college or university at the same time shall be awarded as follows.

a. Students attending two or more Louisiana public two or four-year colleges or universities shall receive a total amount not to exceed the amount that would be charged to the student by the school with the highest tuition among those at which the student is simultaneously enrolled.

b. Students attending two or more regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) shall receive a total amount not to exceed the Weighted Average Award Amount, as defined in §301.

c. Students attending a combination of Louisiana public two or four-year colleges or universities and regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) in an academic program shall receive a total amount not to exceed the amount that would be paid at the public school with the highest tuition among those at which the student is simultaneously enrolled or the weighted average award amount, whichever amount is greater.

F. Beginning with the 2000-2001 academic year and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of two hundred dollars per semester or four hundred dollars per academic year which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a performance award, but who chose either by submission of a completed award confirmation form or by not sending in a completed award confirmation form to receive an opportunity award and was awarded an opportunity award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a performance award.

G. Beginning with the 2000-2001 academic year and continuing for the remainder of their program eligibility,

students who meet each of the following requirements shall be awarded a stipend in the amount of four hundred dollars per semester or eight hundred dollars per academic year which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a honors award, but who chose either by submission of a completed award confirmation form or by not sending in a completed award confirmation form to receive an opportunity award and was awarded an opportunity award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a honors award.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999) LR 26:64 (January 2000), LR 26:

§703. Establishing Eligibility

A.-A.2. ...

3. submit the completed Free Application for Federal Student Aid (FAFSA) in accordance with §501:

a. by the applicable state aid deadline defined in §503; and

b. the dependents of Louisiana residents on active duty with the Armed Forces stationed outside of the state of Louisiana must enter a Louisiana postsecondary institution in that section of the FAFSA which asks the applicant to name the colleges he plans to attend; and

4. initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901; and

a. - f. ...

g. all students must apply for an award by July 1st of the Academic Year (High School) in which they graduate to establish their initial qualification for an award, except as provided by §503.D. For a student entitled to defer acceptance of an award under §703.A.4.b or d, that student must apply by July 1st of the Academic Year (High School) in which the student graduates, except as provided by §503.D, and must also apply by July 1st prior to the Academic Year (College) in which the student intends to first accept the award, and every year of eligibility thereafter, except as provided in §501.B.

A.5. - C. ...

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall receive the award requiring the most rigorous eligibility criteria.

E. - F. ...

G Early Admission to College

1. A student who enters an Eligible College or University under an early admissions program prior to high school graduation will be eligible for an appropriate award under the following conditions:

a. - d. ...

2. A student who graduates from high school in less than four years or who enters an eligible college or

university early admissions program prior to graduation from high school shall be considered a first-time freshman, as defined in §703, not earlier than the first semester following the academic year in which the student would have normally graduated had he or she not graduated early or entered an early admissions program. A student who graduates high school in less than four years or enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student normally would have graduated.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:689 (April 2000), LR 26:

§705. Maintaining Eligibility

A. ...

1. have received less than four years or eight semesters of TOPS Award funds, unless reduced as required by section 503.D; and

2. submit the Renewal FAFSA in accordance with §501.B; and

3. - 5. ...

6. continue to enroll and accept the TOPS award as a full-time undergraduate student in an eligible postsecondary institution, as defined in §1901, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; and

7. by the end of each academic year, earn a total of at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters in an academic program at an Eligible College or University, or either earn a total of at least 24 college credit hours or complete an average of 30 clock hours per week during the fall and spring semesters or fall, winter and spring quarters in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during summer sessions or intersessions or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. ...

9. maintain at an Eligible College or University, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award; or

b. a 3.00 for continuing receipt of either a Performance or Honors Award.

B.-D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:

Chapter 8. TOPS-TECH Award

§801. General Provisions

A. ...

B. Description, History and Purpose. The TOPS-TECH award is a merit based scholarship program for Louisiana residents pursuing skill, occupational training, or technical training at a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree. The purpose of TOPS-TECH is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1904 (October 1998), LR 26:

§803. Establishing Eligibility

A. - A.2. ...

3. submit the completed initial Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline in accordance with the requirements of §503; and

4. - 11. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1794 (October 1999), LR 26:64 (January 2000), LR 26:

§805. Maintaining Eligibility

A. ...

1. have received the TECH Award for less than two years, unless reduced as required by section 503.D; and

2. submit the Renewal FAFSA in accordance with §501.B; and

3.- B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:

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

§1701. Eligibility of Graduates Based Upon the High School Attended

A. Graduates of the following high schools are eligible to participate in LASFAC's Scholarship and Grant programs, as authorized herein:

1. Louisiana Public High Schools (public high schools listed in the Louisiana School Directory (Louisiana Department of Education Bulletin 1462);

2. Approved Nonpublic High Schools

a. nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) pursuant to R.S. 17:11 and which meet the standards required by BESE for students of the school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement, and

b. nonpublic schools approved by BESE pursuant to R.S. 17:11 prior to May 15, 2000, which have applied for and have had their application forwarded by the Louisiana Department of Education prior to May 15, 2000, seeking the approval necessary for the students in such school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement; and starting the 2003-2004 high school academic year, meet the requirements to be eligible to receive from the state the benefit of such appropriations.

c. the approvals by BESE may be provisional or probational approvals.

3.-B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR26:65 (January 2000), LR 26:

§1703. High School Certification of Student Achievement

A.-B.1. ...

2. The certification form shall contain, but is not limited to, the following reportable data elements:

a. - b. ...

c. final cumulative high school grade point average for all courses attempted and recorded on the transcript, converted to a maximum 4.00 scale, if applicable (Note: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum.); and

d. through the graduating class of the Academic Year (High School) 1999-2000, number of core units earned and the number of core units unavailable to the student at the school attended; after the graduating class of the Academic Year (High School) 1999-2000, core unit requirements may not be waived.

A.3. - C.2. ...

D. Certification. The high school headmaster or principal or designee shall certify that:

1.-3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. ...

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS (for both academic programs and programs for a vocational or technical education certificate or diploma or a non-academic undergraduate degree) and LEAP. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of the Lake College of Nursing and Allied Health, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University, and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH, and LEAP.

D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:

§1903. Responsibilities of Postsecondary Institutions

A.- A.7. ...

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award and who have enrolled at the institution in accordance with the following terms and conditions:

1.-7.d. ...

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

C.-F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459(August 1999), LR 26:

Chapter 21. Miscellaneous Provisions and Exceptions

§2107. Funding and Fees

A. - C.3. ...

D. Insufficient Funds Appropriated

1. ...

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the initial FAFSA or a renewal FAFSA or who do not submit a renewal FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from

consideration if insufficient funds are appropriated for the program.

D.2.b.-F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2000, 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)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation costs associated with adopting these rule revisions include rule publication costs of \$1000. Total program increases are \$1,008,797 in FY 2000-01, \$618,026 in FY 2001-2002, \$265,944 in FY 2002-03, \$157,895 in FY 2003-04, and \$128,240 for FY 2004-2005.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections is anticipated to result from this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

TOPS applicants who applied for the award or obtained a qualifying ACT score during specific time frames, or who originally qualified and continue to qualify for higher award levels than they initially selected, or who wish to attend a certificate or diploma program or a non-academic undergraduate degree program in a vocational or technical rather than an academic program will benefit directly from the implementation of these rule changes. Also, nonpublic high schools that applied for Brumfield v. Dodd approval by May 15, 2000 will benefit from the implementation of these changes.

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
0006#065

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)CQualified Summer Session
(LAC 28:IV.301, 509, 701, 703, 705, 805, 1903 and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of

the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

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., July 20, 2000, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuition Opportunity Program for
Students (TOPS)C Qualified Summer Session**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The implementation costs associated with adopting these rule revisions include rule publication costs of \$100. No increase in program costs is anticipated to result from these changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated to result from this rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

TOPS applicants who attend qualified summer sessions and non-academic programs will benefit from the implementation of these changes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No impact on competition and employment is anticipated to result from this rule.

Mark Riley
Assistant Executive Director
0006#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment**

**Incorporation by Reference UpdateC40 CFR Part 60
(LAC 33:III.3003)(AQ102)**

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.3003 (Log #AQ206*).

This proposed rule is identical to federal regulations found in 40 CFR Part 60, July 1, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the

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

This rule incorporates by reference 40 CFR Part 60 as revised July 1, 1999, into LAC 33:III.Chapter 30. Louisiana receives delegation authority from the U.S. Environmental Protection Agency (EPA) for 40 CFR Part 60 Standards of Performance for New Stationary Sources (NSPS) by incorporating the federal regulations into the LAC. EPA's 105 Grant Objective requires that incorporation by reference of new and revised NSPS regulations be made annually. This rulemaking meets that requirement. The basis and rationale for this proposed rule are to mirror the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

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

Subchapter A. Incorporation by Reference (IBR)

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

A. Except as modified in this Section, regulations at 40 CFR part 60 as revised July 1, 1999, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the state of Louisiana.

Table 1. 40 CFR Part 60	
40 CFR Part 60 Subpart	Subpart Heading
	[See Prior Text in A - Ea]
Eb	Standards of Performance for Large Municipal Waste Combustors for which Construction is Commenced after September 20, 1994, or for Which Modification or Reconstruction Is Commenced After June 19, 1996
	[See Prior Text in Ec - WWW]

[See Prior Text in Table 1.A]

B. Reserved.

[See Prior Text in C - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on July 26, 2000, 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. Commentors should reference this proposed regulation by AQ206*. Such comments must be received no later than July 26, 2000, 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) 765-5095. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ206*.

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; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 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

0006#102

NOTICE OF INTENT
Office of the Governor
Division of Administration
Property Assistance Agency

Items of Property to be Inventoried
(LAC 34:I.307)

In accordance with the R.S. 49:950, et seq., the Division of Administration, Louisiana Property Assistance Agency, hereby gives notice of its intent to amend LAC 34:VII.307. The Items of Property to be Inventoried rules will have no known impact on family formation, stability, and autonomy as set forth in R.S. 39:321.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part I. Purchasing

§307 Items of Property to be Inventoried

A. All items of moveable property having an "original" acquisition cost, when first purchased by the state of Louisiana, of \$1000 or more, all gifts and other property having a fair market value of \$1000 or more, and all weapons, regardless of cost, with the exception of items specifically excluded in §307.F and §307.G, must be placed on inventory. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent

inventory information must be forwarded to the Louisiana Property Assistance Agency Director or his designee within 45 days after receipt of these items.

B. The head of the agency, at his discretion, may include items such as computers, electronic calculators, desks, file cabinets, tables, and other property having an acquisition cost of less than \$1000 in the inventory.

C. Gifts of moveable property must be given a fair market value as agreed upon between the donor and head of the receiving agency and recorded in the inventory if the fair market value is \$1000 or more.

D. Agencies manufacturing moveable property for use within the agency must determine the estimated cost based on the cost of labor and materials and include such items in the inventory provided that estimated cost is \$1000 or more.

E. Agencies which are eligible to receive federal surplus property must place on inventory all items acquired from Federal Surplus which would ordinarily be classified as moveable property and which have an acquisition cost of \$1000 or more. The acquisition date will be the date of acquisition by the state agency and the acquisition cost will be the actual cost incurred by the state agency.

NOTE: There are federal regulations regarding accountability for federal surplus property. State agencies should contact the Federal Surplus Property section for information regarding these regulations.

F - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control, LR 2.241 (August 1976), amended LR 8.144 (March 1982), amended by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 12.103 (February 1986), LR 26:

Irene C. Babin
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Items of Property to be Inventoried

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The rule changes will result in a reduction of time and expense for state agencies in tagging and inventorying moveable property. Estimated savings are expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits associated with these changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Irene Babin
Director
0006#118

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Electrolysis Examiners

Definition of Electrologist Technician; Exceptions and Rights; Licensure of Electrologists and Instructors, Sanitary Requirements; License Renewal
(LAC 46:XXXV.103, 105, 903, 905, 1303, 1401 - 1409 and 1503)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and of R.S. 37:74, the Board of Louisiana Electrolysis Examiners gives notice of its intent to revise Title 46, Part XXXV. The objective of this action is to adopt, amend and repeal rules in response to changes in the 1999 regular session, Act 530 of 1999, enacted on June 14, 1999. Rules are being changed for the requirements for licensure of instructors of electrology; licensure of electrologists technicians; to provide for the use of sterilized disposable equipment, and to establish continuing education. Implementation of the proposed rules will have no known effect upon family stability, functioning, earnings, budgeting, the responsibility and behavior of children, or parental rights and authority, as set forth in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXV. Electrologists

Chapter 1. General Provisions

§103. General Definitions

A. ...

* * *

Electrologist Technician Any person who for compensation practices electrolysis for the permanent removal of hair under the direct supervision of a licensed electrologist and has completed a 200-hour course of instruction.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 10:329 (April 1984), repromulgated LR 11:534 (May 1985), amended LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

§105. Exceptions and Rights

A. - C. ...

D. A new unopened presterile disposable type probe shall be used for each client treatment. Techniques of sterilization of other instruments shall be the same as is used in hospitals, using pressure heat, dry heat, or any other method of sterilization deemed appropriate by the board.

E. Operation of Other Business or Trade

1 No other business or trade shall be allowed in treatment rooms while electrolysis is being performed, however, a licensed physician may perform electrolysis in his private office or clinic.

2. If a person or business conducting electrolysis before July 1, 1983, moves to a different location, that person or business shall be required to comply with the terms of this Subsection.

3. Further, any person or person conducting electrolysis that accedes to the common office suites, treatment rooms, and reception or waiting rooms used for the performance of any other business or trade, including schools of electrology and apprenticeship programs, shall be required to comply with the terms of the Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:329 (April 1984), repromulgated LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

Chapter 9. Licensure of Electrologists and Instructors

§903. Licensure of Electrologists

A. The board shall license and issue an appropriate certificate to any person who files a verified application, accompanied by the appropriate application fee, with evidence, verified under oath and satisfactory to the board, that he is at least 18 years of age, of good moral character, has graduated from an accredited high school or equivalent (has submitted proof of G.E.D.), and has successfully completed a course in practical training of electrolysis in a school of electrology which maintains the standards established and approved by the board or that he has completed a like number of hours in the subject areas specified in an apprenticeship program approved by the board; at the time of certification is free of any infectious disease; has successfully completed the written and practical test, and is current with all fees owed to the board, and has completed at least 450 hours of clinical experience, 150 hours of academic study in a board approved school or apprenticeship program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:534 (May 1985), LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

§905. Licensure of Instructor

A. The board may issue a license to any person as an instructor of electrology, subject to the restrictions provided herein and rules promulgated pursuant to R.S. 37:3051-3077. No person shall teach or instruct electrology or its allied courses who does not hold both a valid license to practice electrology and a valid instructor's license issued by the board in accordance with the provisions of R.S. 3051-3077.

B. The board shall not license as an instructor of electrology any person who does not file with it a verified application thereof, accompanied by the appropriate application fee required, together with evidence verified by oath and satisfactory to the board, that the applicant:

1. meets all the requirements to practice electrology in this state and holds a current license to practice electrology in this state;

2. has practiced as a licensed electrologist for at least five years.

C. The board shall not issue an instructor's license to any person seeking initial licensure on or after August 1, 1999, who does not possess the following qualifications:

1. possesses the applicant qualifications required in §905.A and §905.B.1 and 2;

2. has successfully completed the curriculum for instructor training in electrolysis in an instructor training program that maintains the standards established and approved by the board and is part of either an approved school of electrology or an approved apprenticeship program. Such curriculum shall be under the supervision of a licensed instructor of electrology, shall include a course of study and practice over no less than a five-month period, and shall include at least 175 hours on the science of teaching, 150 hours of teacher assistance/observations, and 175 hours of clinic-supervised practice teaching;

3. successfully achieves a minimum test score on an examination administered and approved by the board. The examination shall be given annually at such time and place and under such supervision as the board determines and specifically at such other times as in the opinion of the board the number of applicants warrants. The board shall designate the date, time, and place of examination and give public notice thereof and, in addition, shall notify each person who has made application for examination to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

§1303. Sanitary Requirements for Schools, Apprenticeship Programs, and Electrology Offices

A. ...

B. In compliance with recommendations of the Centers for of Disease Control (CDC), all electrology schools, apprenticeship programs, and electrology offices shall be equipped with either a dry heat sterilizer or steam heat autoclave to be used in accordance with the manufacturer's instructions. A new unopened presterile disposable type probe shall be used for each client treatment. Techniques of sterilization of other instruments shall be the same as is used in hospitals, using pressure heat, dry heat, or any other method of sterilization deemed appropriate by the board. All other instruments must be thoroughly cleansed with soap and water and then wiped clean with 70 percent alcohol solution before being placed in one of the following sterilization units. The instruments must then be sterilized following the manufacturer's proper sterilization procedures. These temperatures must be maintained during the complete sterilization cycle:

1. saturated steam, 250°F, 15 psi, 30 minutes; and
2. dry heat, 340°F for 60 minutes or 320°F for 120 minutes.

C. All probes must be discarded in a Contamination Waste Box (red box), then discarded or collected in accordance with State Biomedical Hazardous Waste Disposal Procedures.

D. Vinyl or latex protective gloves shall be used while attending electrology procedures. Hands shall be thoroughly washed with soap and water after removal of gloves. Unused gloves shall be used for each patient procedure and

discarded after each use or if practitioner leaves patient's side or touches anything.

E. Clean tissues, paper towels or freshly laundered towels shall be used for each patient. Before any patient is permitted to recline in a chair or on a table, said object shall be covered with a clean professional size towel or drape or a clean professional type tissue and shall be disposed of or laundered after each use.

F. The skin area to be treated must first be cleaned with 70 percent alcohol.

G. Every patient must be treated on a professional treatment table or chair, which shall be used for the purpose of electrolysis treatment only. The exception to the preceding is if the patient is physically handicapped; the patient may be treated in a wheelchair, stretcher, medical bed, chair or table.

H. All treatment shall be given in privacy within an enclosed area.

I. The electrolysis treatment room shall be provided with a separate entrance, but not leading directly from the exterior of the house or building. One must not pass through any part of the living quarters in order to reach the treatment room.

J. The treatment room shall be closed from adjacent rooms by walls or doors. During treatment, such doors shall remain closed.

K. Every office shall have hand washing facilities with operating hot and cold water in the treatment room or adjacent room which can be reached without passing through any part of the living quarters. Such hand washing facilities shall not be located in the bathroom, or public restroom.

L. No electrologist, instructor or student in an apprenticeship program or school shall knowingly treat a person who is infected with impetigo, any contagious disease, skin malignancy, or any disease dangerous to the public.

M. No electrologist, instructor or student in an apprenticeship program or school shall treat a diabetic person without written authorization of the patient's treating physician.

N. All electrologists, instructor and student, must place probe in holder of epilator when not in use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993).

Chapter 14. Electrologist Technician

§1401. Licensure of Electrologist Technician

A. The board shall license and issue an appropriate certificate to any person who files a verified application, accompanied by the appropriate application fee, with evidence, verified under oath and satisfactory to the board, that he is at least 18 years of age, of good moral character, has graduated from an accredited high school or equivalent (has submitted proof of G.E.D.), and has successfully completed a course in practical training of electrolysis in a school of electrology which maintains the standards established and approved by the board or that he has

completed a like number of hours in the subject areas specified in an apprenticeship program approved by the board, at the time of certification is free of infectious disease, has successfully completed the written and practical test, and is current with all fees owed to the board, and has completed at least 110 hours of clinical experience, 90 hours of lectures on insertion techniques, modalities, healing, regrowth problems, and office management.

B. Application fee for an electrologist technician shall be the same as provided in the R.S. 37:3072(A)(1).

C. The board may license any person as an electrologist technician who has successfully completed the provisions of R.S. 37:3063(C)(2) and passes the appropriate written and practical examinations. The electrologist technician must work under the direct supervision of a licensed electrologist or licensed electrologist instructor and provide the name of the supervising electrologist to the board. A licensed electrologist technician may upgrade his license to that of an electrologist by completing the additional theory and practical hours in school or an electrologist apprenticeship program and by passing the appropriate board examination.

D. If a student fails one or more parts of an examination, the student may take the parts in which he has failed in a subsequent examination upon payment of a \$15 examination fee. If, after two attempts, the examination is not satisfactorily completed, the student thereafter shall be required to repeat and take the entire examination within one year of the date of the original examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

§1403. Requirements for Electrologist Technician

A. Each licensed electrologist technician may provide services only under the direct supervision of a licensed electrologist or a licensed instructor of electrology and provide the name, address, and license number of the supervising electrologist to the board.

B. The licensed electrologist technician shall comply with the current regulations for sanitary requirements, proper sterilization, license renewals, and professional conduct in the boards rules and regulations.

C. The electrologist technician shall not give formal consultations by phone or in the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

§1405. Requirements for Instructor of Electrologist Technician

A. No instructor shall devote more than five days a week and no more than six hours a day to formal training in electrolysis including practical experience and extending over a period of not less than two months.

B. Electrologist Technician Students shall submit to the board in writing every month a record of the time completed by every electrologist technician student in practical and theoretical work.

C. No electrologist technician student may be supervised by another student or apprentice.

D. The board approved school or apprenticeship program shall provide an identification badge to each student. The badge shall include the student's name, picture, and school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

§1407. Requirements of Supervising Electrologists

A. Each supervising licensed electrologist shall be responsible for the activities of the electrologist technician under his/her direct supervision.

B. Have on file each patient's signed statement verifying that he/she is aware of being treated by a licensed electrologist technician which may be checked upon inspection by the board.

C. The supervising licensed electrologist shall furnish the board with the name, address, and license number of the electrologist technician under their supervision. The board must be contacted if the electrologist technician ceases to be under the direct supervision of the licensed electrologist.

D. Each licensee must display his or her license in the treatment room. Each duplicate license will be provided by the board after payment of a \$25 duplicate license fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

§1409. Curriculum Regulations for the Electrologist Technician

A. The 110 hours of clinical experience shall involve epilation whereby the licensed instructor demonstrates how to perform electrolysis on areas to be treated on the face and body not specifically prohibited in §105.B of the rules and regulations.

B. The 90 hours of academic study shall include the following:

1. histology of hair and skin structure	30
2. bacteriology and sterilization	20
3. electricity and equipment	15
4. basic dermatology	15
5. professional conduct and hygiene (including statutes and state board rules and regulations)	90

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 26:

Chapter 15. License

§1503. Renewal of License

A. Each license to practice electrology in this state shall be renewed annually on or before December 1 of each year upon application thereof accompanied by the renewal fee prescribed in R.S. 37:3072(A) and, beginning December 31, 1999, proof that the applicant has completed at least three hours of continuing education approved by the board.

B. Continuing Education Guidelines

1. The board may grant an extension of up to six months for completion of the continuing education requirements to any person who applies to the board in writing for an extension and shows good cause.

2. In addition to the continuing education requirements of §1503.A and B.1, license renewal for an instructor's license shall include completion of an additional two hours of continuing education approved by the board. The board may grant an extension of up to six months for completion of the continuing education requirements to any

person who applies to the board in writing for an extension and shows good cause.

B. Failure to Register

1. When any electrologist, instructor, electrolysis school, or electrologist apprenticeship program licensed hereunder fails to register and pay the annual registration fee within 30 days after the registration fee becomes due, the license or certificate of such person, school, or electrologist apprenticeship program shall be revoked automatically at the expiration of 30 days after the registration was required, without further notice or hearing. However, any person, school, or electrologist apprenticeship program whose license or certificate is automatically revoked as provided herein may, within three years of the date of revocation, make application in writing to the board for the reinstatement of such license or certificate and, upon good cause being shown, the board in its discretion may reinstate such license or certificate upon payment of all past due renewal fees and the payment of an additional sum of \$50. The board may require as a condition of reinstatement that the person complete all or some of the past continuing education requirements within 12 months of reinstatement of the license.

2. Any person, electrologist school, or electrologist apprenticeship program who fails within three years after revocation of a license or certificate to make written application to the board for reinstatement must reapply to the board and successfully complete a written and practical examination and pay all fees as required under the provisions of this Chapter and the rules and regulations adopted pursuant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3051.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Electrolysis Examiners, LR 10:333 (April 1984), amended LR 11:534 (May 1985), amended by the Department of Health and Hospitals, Board of Electrolysis Examiners, LR 17:778 (August 1991), LR 19:1144 (September 1993), LR 26:

Interested persons may submit written comments through June 20, 2000 to the following address: Cheri L. Miller, Chairperson, Louisiana State Board of Electrolysis Examiners, P.O. Box 67, DeRidder, LA 70634.

A public hearing on the proposed rule will be held on July 24, 2000 at the Holiday Inn South, Airline Hwy., Baton Rouge, LA 70816. All interested persons will be afforded an opportunity to submit data, views, arguments, orally or in writing at the hearing.

Cheri L. Miller
Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Definition of Electrologist Technician;
Licensing of Electrologist Technician**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no additional cost or savings to the board as a result of these rule changes. The only cost associated with the implementation of the proposed rule changes will be the cost to publish the rule in the *Louisiana Register* at \$120.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Due to the anticipated increase in the number of instructors, the estimated revenue collected by the board will increase by \$500 annually.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed action will have an effect on students of electrology as they will receive better training from better trained instructors.

The sterilization action proposed will promote safety and well-being to clients.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed action will allow students of electrology to receive better training.

The sterilization action proposed will promote safety and well-being to clients.

Cheri L. Miller
Chairperson
0006#001

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Pharmacy**

Pharmacy Education (LAC 46:LIII.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1163 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to repeal the current contents of the referenced chapter and adopt the proposed entire chapter.

Title 46

**PROFESSIONAL AND OCCUAPTIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 7. Pharmacy Education

§710. Statutory Authority

A. All applicants for licensure by examination shall have obtained practical experience in the practice of pharmacy concurrent with attending or after graduation from an approved college of pharmacy. The practical experience shall be predominately related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and making of reports as required under state and federal law. The practical experience obtained shall have been under the direct and immediate supervision of a certified pharmacist preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§703. Student Registration and Internship Program

A. Qualifications

1. a student enrolled in an approved college of pharmacy, or

2. a graduate of an approved college of pharmacy or a graduate who has established educational equivalency through a program approved by the Board, or

3. an individual participating in a residency or fellowship.

a. *Residency* Can organized, directed postgraduate training program in a defined area of pharmacy practice.

b. *Fellowship* Ca directed, highly individualized, postgraduate program designed to prepare the participant to become an independent researcher.

4. The intern applicant shall be non-impaired.

a. The applicant may be required to submit to confidential random drug screen testing or evaluations.

b. A positive drug screen test result may be self-evident as proof of improper drug use.

B. Requirements

1. All students and graduates shall be registered with the Board. The failure to register may result in disciplinary action by the Board.

a. The properly completed application shall be submitted no later than the end of the first semester of the first professional year.

b. The Board may issue an Intern Registration/Work Permit to the applicant, upon receipt of a properly completed application and the appropriate fee.

c. The Intern Registration/Work Permit shall expire no later than one year after the date of graduation from an approved college of pharmacy.

d. The Intern Registration/Work Permit shall be posted in the preceptor site.

e. The Board shall reserve the right to refuse to issue or to recall any Intern Registration/Work Permit.

f. In the presence of extraordinary circumstances, an intern may petition the Board, in writing, for an extension of the expiration date of the Intern Registration/Work Permit.

2. While on duty, an intern shall wear appropriate attire and be properly identified with name, status, and college of pharmacy.

C. Practical Experience Hours

1. Interns shall supply by affidavit a minimum of 1500 hours of practice experience in order to apply for pharmacist licensure.

a. Hours shall be listed on a form supplied by the Board, signed by the preceptor and intern, notarized, and submitted to the Board for approval and credit.

i. An intern may receive credit for a maximum of 50 hours per week.

ii. A separate affidavit shall be required from each preceptor site.

b. Hours obtained outside the State of Louisiana shall be certified to the Louisiana Board of Pharmacy by the board of pharmacy in the state in which the hours were obtained. Upon written request by the intern, the Board may certify practical experience hours earned in Louisiana to other boards of pharmacy.

c. For interns enrolled in a B.S. program:

i. at least 600 hours shall be earned in the internship program prior to and as a prerequisite for obtaining a maximum credit of 400 hours for the structured didactic program or demonstration project offered by an approved college of pharmacy;

ii. a minimum of 500 hours shall be earned in the internship program after certification of graduation from an approved college of pharmacy;

iii. all 1500 hours may be earned in the internship program after certification of graduation from an approved college of pharmacy.

d. For interns enrolled in a Pharm.D. program:

i. at least 400 hours of practical experience shall be earned in the internship program as a prerequisite for obtaining a maximum credit of 1100 hours for the structured didactic program of an approved college of pharmacy. A maximum of 200 hours may be earned in a non-permitted pharmacy practice, as defined in LAC 46:LIII.913;

ii. a maximum credit of 1100 hours may be earned upon the satisfactory completion of the structured didactic program or demonstration project offered by an approved college of pharmacy. Of the 1100 hours maximum allowed in the structured program, a minimum of 300 hours shall be earned in community pharmacy practice and a minimum of 300 hours shall be earned in hospital or health-system pharmacy practice;

iii. all 1500 hours of practical experience may be earned in the internship program after certification of graduation from an approved college of pharmacy.

e. An intern shall not work in a permitted site that is on probation or with a pharmacist preceptor who is on probation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§705. Preceptor Program

A. Qualifications for Pharmacist Preceptor Applicants

1. The applicant shall be currently licensed and actively practicing for not less than two years prior to the date of application.

2. The applicant shall not be on probation at the time of application.

B. Requirements

1. The applicant shall complete a Board approved preceptor training program.

2. The applicant shall complete an Application for Pharmacist Preceptor Certificate. The Board shall issue a Pharmacist Preceptor Certificate after verification that all requirements have been satisfied.

a. The Pharmacist Preceptor Certificate shall expire five years from the date of issue, and may be renewed upon application to the Board and verification that all requirements have been satisfied.

b. The Board shall reserve the right to refuse to issue or to recall any Pharmacist Preceptor Certificate.

c. The Pharmacist Preceptor Certificate shall be conspicuously displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1202.C.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

§707. Continuing Education Program

A. The Board, recognizing that professional competency is a safeguard for the health, safety, and welfare of the public, shall require continuing pharmacy education as a prerequisite for annual licensure renewal for pharmacists.

1. Definitions

ACPECAmerican Council on Pharmaceutical Education

CPECContinuing Pharmacy Education, a structured postgraduate educational program for pharmacists to enhance professional competence.

CPE UnitCa standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to ten credit hours.

2. Requirements

a. A minimum of one and one-half ACPE or Board approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal.

b. Pharmacists shall maintain copies of individual records of personal CPE activities at their primary practice site for two years and present them when requested by the Board.

c. When deemed appropriate and necessary by the Board, some or all of the required number of hours may be mandated on specific subjects. When so deemed, the Board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

3. Compliance

a. Complete compliance with CPE rules is a prerequisite for pharmacist licensure renewal.

b. Non-compliance with the CPE requirements shall be considered a violation of R.S. 37:1241.A.(2) and shall constitute a basis for the Board to refuse licensure renewal.

c. The failure to maintain an individual record of personal CPE activities, or falsification of CPE documents, shall be considered a violation of R.S. 37:1241.A.(22).

d. The inability to comply with CPE requirements shall be substantiated by a written explanation, supported with extraordinary circumstances, and submitted to the Board for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1210.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:

The full text of these proposed rules may be obtained by contacting the Louisiana Board of Pharmacy at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, LA 70808, or by telephoning (225) 925-6496.

Any person may submit data, views, or positions, orally or in writing, to the Louisiana Board of Pharmacy as indicated above. Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 1:30 p.m. to 4:30 p.m. on July 27, 2000 at the Board office.

Malcolm J. Broussard, RPh
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to the agency to implement the proposed rule consists of printing and distributing the rule to the 2,000 holders of the Louisiana Board of Pharmacy Book of Laws and Regulations. That cost is estimated to be \$3,422 in FY 00-01. The agency has sufficient self-generated funds budgeted and available to implement this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The agency anticipates a decrease of \$6,000 in registration fees from pharmacy interns for FY 01-02 and beyond.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pharmacy interns currently pay an annual registration fee of \$10. The proposed rule changes the registration period to the entire four-year professional curriculum; thus, each intern should realize \$30 savings in fees during their professional education. The Board is unable to determine any other impact on income or receipts as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Board is unable to discern any effects on competition or employment.

Malcolm J. Broussard, RPh
Executive Director
0006#110

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office for Addictive Disorders**

OAD Resource Allocation Formula

The Department of Health and Hospitals, Office for Addictive Disorders, proposes to adopt a rule to utilize a resource allocation formula established by the assistant secretary to fund prevention and treatment services for the Office for Addictive Disorders. This formula provides a measurement tool to assist in working toward equitable access to addictive disorder prevention and treatment services in the state. The primary use of the formula will be to identify under-served regions of the state and to target them with new or underutilized funds. This formula will be evaluated each year to determine necessary changes.

This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. This proposed rule will implement the provisions of R.S. 28:772, as amended. This proposed rule has no known impact on family functioning stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Office for Addictive Disorders will utilize the following resource allocation formula to determine the distribution of funding for the delivery of prevention and treatment services within the state. The elements upon which the formula is based, along with assigned weights (%) which represent the relative importance of each element, are as follows.

Resource Allocation Formula Elements/Weights

Poverty 20%

This is measured as the number of persons residing in the region who have incomes below the poverty level as defined by the U.S. Census Bureau.

Population 20%

The total population living in the regions between the ages of 15 and 34 according to the U.S. Census Bureau.

Treatment Need 20%

This is the estimated number of adults needing alcohol or drug treatment in each region as determined by the Research Triangle Institute.

Arrests 15%

This is the total number of adult and juvenile arrests for alcohol and drug offenses.

Rurality 15%

This is the number of persons living in rural areas with less than 2,500 residents as defined by the U.S. Census Bureau.

Teenage Mothers 10%

This is the number of persons in each region under 20 years of age who have given birth according to data provided by the Louisiana Vital Records Registry.

Interested persons may submit written comments on the proposed changes to Michael Duffy, Deputy Assistant Secretary, Office for Addictive Disorders, Department of Health and Hospitals, P.O. Box 3868, Baton Rouge, Louisiana 70821. He is responsible for responding to inquiries regarding this proposed rule. The deadline for receipt of all written comments is 4:30 p.m. on Thursday, July 20, 2000.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: OAD Resource Allocation Formula**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state or local governmental units other than paying printing costs, which are estimated at \$120 in FY 1999/00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect or revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Utilization of the formula will allow the Office for Addictive Disorders to identify underserved regions of the state and to target those regions with new or underutilized funds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Alton E. Hadley
Assistant Secretary
0006#097

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 74C Payment of Health Coverage Claims
(LAC 37:XIII.Chapter 60)

In accordance with the provisions of R.S. 49:953 of the Administrative Procedure Act, R.S. 22:3, 22:250.35, the Department of Insurance is proposing to adopt the following regulation regarding standards for the processing of claims, by health insurance issuers and preferred provider organizations. This regulation is necessary to establish reasonable requirements for health insurance coverage that assures compliance with state statutory requirements under Title 22 of the Louisiana Revised Statutes of 1950. More specifically, this regulation is necessary to implement and enforce the following provisions: R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:1299.41(A)(1).

Title 37

INSURANCE

Part XIII. Regulations

Chapter 60. Regulation 74C Payment of Health Coverage Claims

§6001. Purpose

A. The purpose of this regulation is to implement the statutory requirements of health insurance issuers under Title 22 of the Louisiana Revised Statutes of 1950. Title 22 of the Louisiana Revised Statutes of 1950 establishes the statutory requirements for payment of claims by health insurance issuers serving residents of Louisiana. The statutory requirements establish the intent of the legislature to assure that residents with health care coverage are not billed for liabilities of health insurance. The statutory requirements also establish the legislative intent to prohibit certain billing activities by health care providers for services due and payable by a health maintenance organization.

B. To carry out the intent of the legislature and assure full compliance with the provisions of applicable statutory requirements, this regulation sets forth the standards for payment of claims by health insurance issuers and supercedes current regulations on uniform claim forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§6003. Applicability and Scope

A. Except as otherwise specifically provided, the requirements of this regulation apply to all health insurance coverage issued for delivery in the state of Louisiana that is

otherwise subject to the statutory requirements of Part VI-D of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950. The requirements of this regulation apply to all preferred provider organization contracts as required under the provisions of R.S. 40:2203.1(E) of the Louisiana Revised Statutes of 1950. The requirements of this regulation shall also apply to the State Employees Group Benefits Program as required under R.S. 22:230.4(A)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§6005. Claim Payments C Definitions

Claim C a request that covered benefits of a health insurance issuer be provided or paid for services that have been provided. The benefits claimed may be in the form of covered services, supplies, and payment for all or a portion of expenses incurred a combination of covered services, supplies and expenses incurred, or indemnification for all or a portion of actual losses.

Claimant C covered person, an authorized representative, or other entity filing a clean claim that is entitled to receive reimbursement from a health insurance issuer for covered benefits.

Clean Claim C a correctly completed standardized claim form as required under the Department of Insurance, Regulation 48.

Commissioner C the commissioner of insurance.

Contracted Medical Services C services provided by a state licensed, certified, or state registered provider of health care services, treatment, or supplies, including but not limited to those entities defined in R.S. 40:2203.1 that have entered into a contract or agreement with a health insurance issuer to provide such services, treatment or supplies to an individual enrollee or insured.

Covered Benefits C benefits available to a member, subscriber or insured under an insurance policy, benefit plan, or other contract for coverage of health care benefits. The term also includes any medical services or equipment that is provided to a covered person under an assignment of benefits, when such assignment is authorized by law and the terms of an insurance policy or contract of coverage issued by a health insurance issuer.

Covered Person C an insured, enrollee, member, or subscriber. In the case of a minor, the term includes an insured or legal guardian authorized to act in the best interest of such minor and therefore is acting on behalf of such covered person.

Date Upon Which a Clean Claim is Received C the date the uniform claim form is received by the health insurance issuer or its legal agent. For health insurance issuer examinations, the department will use the postmark date of claims to determine if the date of receipt reasonably reflects the date claims are actually received by health insurance issuers.

Department C the department of insurance.

Electronic Claim C the transmission of data for purposes of payment of covered medical services in an electronic data format specified by a health insurance issuer and approved by the department.

Health Insurance Coverage C benefits consisting of medical care provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization agreement, or health maintenance organization contract offered by a health insurance issuer that is subject to the requirements of Part VI-C of Chapter 1 of the Louisiana Revised Statutes of 1950.

Health Insurance Issuer C an insurance company, including a health maintenance organization, as defined and licensed pursuant to Part XII of Chapter 2 of Title 22, unless preempted as an employee benefit plan covered by the provisions of the Employee Retirement Income Security Act of 1974. The term shall also include the State Employees Group Benefits Program as required under R.S. 22:230.4(A)(4) and preferred provider organizations as required under R.S. 40:2203.

Just and Reasonable Grounds Such as Would Put a Reasonable and Prudent Businessman on His Guard C an articulable set of facts, as opposed to mere speculation or assumption, that fully complies with established jurisprudence. For health insurance issuer examinations, the department will reasonably determine whether denials are based on an articulable set of facts.

Non-Contracted Medical Services C services provided by a state-licensed, certified, or state-registered provider of health care services, treatment, or supplies, including but not limited to those entities defined in R.S. 40:1299.41(A)(1) that have no contract or agreement with a health insurance issuer to provide such services, treatment or supplies to an individual enrollee or insured.

Paid C the date the claim is adjudicated and any amount due and payable is released by the health insurance issuer. Any difference between the date of adjudication and the date the payment is released is required to be documented in the health insurance issuer's claim handling procedures filed with the department.

Prohibited Billing Activities C the demand for payment of medical services from a covered person for covered benefits that are payable under the terms of a provider agreement with a health insurance issuer that is in effect.

Uniform Claim C a standardized claim form as required under the Department of Insurance, Regulation 48.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§6007. Nonelectronic Claim Submission Standards

A. Contracted Medical Services

1. Any claim submitted by a contracted health care provider within 45 days of the date of service or discharge shall be paid to the claimant not more than 45 days from the date upon which a clean claim is received by a health insurance issuer or its legal agent, for an allowable expense on behalf of a covered person, unless just and reasonable grounds such as would put a reasonable and prudent businessman on his guard exist.

2. Any claim submitted by a health care provider more than 45 days after the date of service or discharge or

resubmitted because the original claim was incomplete or incorrect shall be paid to the claimant not more than 60 days from the date upon which a clean claim is received by a health insurance issuer or its legal agent, unless just and reasonable grounds such as would put a reasonable and prudent businessman on his guard exist.

B. Non-Contracted Medical Services

1. Any claim for health insurance coverage benefits, whether submitted for payment by a covered person or by the health care provider rendering covered medical services that are not otherwise payable to the provider under a medical service contract with the health insurance issuer, shall be paid to the claimant not more than 30 days from the date upon which a clean claim is received by a health insurance issuer or its legal agent, unless just and reasonable grounds such as would put a reasonable and prudent businessman on his guard exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§6009. Electronic Claim Submission Standards

A. Any clean claim for a covered benefit payable to or on behalf of a covered person submitted by a contracted health care provider as an electronic claim shall be paid to the claimant not more than 25 days from the date upon which a clean claim form is received by the health insurance issuer or its legal agent, unless just and reasonable grounds such as would put a reasonable and prudent businessman on his guard exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§6011. Thirty-Day Payment Standard

A. A health insurance issuer may elect to utilize a thirty-day payment standard for compliance with the requirements of §§6007 and 6009 following provision of written notice to the Office of Health Insurance who shall provide notice of such changes. Health insurance issuers may cancel this election upon provision of written notice to the Office of Health Insurance. Any health insurance issuer electing to utilize a 30 day payment standard shall continue to meet all other requirements of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions: R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§6013. Claim Handling Procedures

A. Health insurance issuers shall have appropriate handling procedures approved by the department for the acceptance of various claim submissions. Health insurance issuer claim handling procedures shall be filed with the Office of Health Insurance for review and approval. Such procedures shall include:

1. a process for documenting the date of actual receipt of claims. Health insurance issuers shall include appropriate safeguards to assure claims are appropriately classified and

directed to the appropriate claims staff for review. The procedures shall include a process for documenting complaints regarding lost claims and appropriate corrective action protocols;

2. a process for reviewing claims for accuracy and acceptability. Health insurance issuers shall document their review process that includes procedures to verify compliance with uniform claim handling procedures. The procedures shall document the reasonable period of time taken to completely review each claim for completeness. The process and average timeframe utilized by the health insurance issuer shall be described in sufficient detail to document the average time required to determine if a uniform claim form has been correctly completed. For any claim that is found to be incomplete or otherwise not payable, the health insurance issuer shall provide specific written notice to the claimant within two days of all known reasons that the claim cannot be processed for payment within a reasonable period of time from the date of reviewing such claim for completeness. The procedures shall assure that the health insurance issuer prohibits the offsetting of claim payments for any other party, except as specifically provided by law, or with the expressed written consent of the claimant as provided for in the health insurance coverage contract or by the contracted medical services provider contract. Except as required under R.S. 40:2010, a health insurance issuer whose policies or contracts of coverage do not allow benefit assignment shall be authorized to reject claims that are incorrectly completed as assigned claims;

3. a process for reporting all claims rejected by the health insurance issuer and the reason for such rejection.

B. Late Payment Procedures. Health insurance issuers shall establish appropriate procedures approved by the department to assure that any claimant who is not paid within the time frames specified in this regulation receives a late payment adjustment equal to 1 percent of the amount due at the time the claim is paid. For any period greater than 25 days following the time frames specified in this regulation, the health insurance issuer shall pay to the claimant an additional late payment adjustment equal to 1 percent of the unpaid balance due for each month or partial month that such claim or any portion of the claim remains unpaid.

C. Compliant Procedures. The health insurance issuer's procedures shall include a process for insureds or enrollees to file complaints regarding provider demands for amounts owed by health insurance issuers. The procedures shall include all actions that will be taken by the health insurance issuer to address non-compliant providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions: R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§6015. Limitations on Claim Filing and Audits

A. Health insurance issuers that limit the period of time that a claim may be filed for payment of benefits shall have the same limited period of time following payment of such claims to perform any review or audit for purposes of reconsidering the validity of such claims. For example, where a health insurance issuer limits the period for filing a claim for benefits to 12 months, then the health insurance

issuer shall be limited to 12 months from the date of payment to perform any review or audit of the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

§6017. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:250.35, to implement and enforce the following provisions R.S. 22:230.4(A)(4), Part VI-D of Chapter 1 of the Louisiana Revised Statutes of 1950, and R.S. 40:2203.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:

A public hearing on this proposed regulation will be held on July 26, 2000 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana, at 9 a.m.. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation, and may submit oral or written comments to Claire I. Lemoine, Senior Attorney, Department of Insurance, P.O. Box 94214, Baton Rouge, Louisiana 70804-9214, telephone (225) 342-5317. Comments will be accepted through the close of business at 4:30 p.m. July 26, 2000.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 74C Payment of
Health Coverage Claims**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is not anticipated that Regulation 74 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)**

Regulation 74 should have no impact upon revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Regulation 74 calls for late-payment adjustments to claimants whose claim is not paid within the time frames specified in the regulation. There are insufficient data available to determine the amount such adjustments might total; this would be a benefit to the claimant and an added cost to the insurer.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Regulation 74 is not expected to have any impact on competition and employment.

Craig S. Johnson
Chief of Staff
Management and Finance
0005#007

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Gaming Control Board**

Accounting Regulations; Internal Controls, Slots
(LAC 42:VII.2723, IX.2723 and XIII.2723)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2723.F, G and H, to amend 42:IX.2723.F, G and H to amend 42:XIII.2723.F, G and H and to repeal 42:VII.2715.P and XIII.2715.P in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950, et seq.

**Part VII. Pari-Mutuel Live Racing
Facility Slot Machine Gaming**

Chapter 27. Accounting Regulations

§2715. Internal Control; General

- A. - O. ...
- P. Repealed
- Q. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:748 (April 2000) amended by the Gaming Control Board, LR: 26:

§2723. Internal Controls, Slots

- A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the casino operator or casino manager shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

- I. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 26:728 (April 2000) amended by the Gaming Control Board, LR: 26

Part IX. Landbased Casino Gaming

Chapter 27. Accounting Regulations

§2723. Internal Controls, Slots

A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the casino operator or casino manager shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR:26:

Part XIII. Riverboat Gaming

Chapter 27. Accounting Regulations

§2715. Internal Control; General

A. - O. ...

P. Repealed

P. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2235 (November 1999), amended by the Gaming Control Board LR 26:

§2723. Internal Controls, Slots

A. - E.4. ...

F. If the jackpot is \$5,000 or more, a surveillance photograph shall be taken of the winner and the payout form shall be signed by a slot supervisor or casino shift manager in addition to Subsection D and E. The requirements of this subsection shall be complied with prior to the device being returned to operation.

G. If the jackpot is \$10,000 or more, the slot attendant shall notify a slot technician who shall remove the electronic board housing the EPROM's. A surveillance photograph of the division seal covering the EPROM shall be taken before the jackpot is paid. This photograph shall be attached to the jackpot payout form. This is in addition to requirements as stated in Subsection D, E and F. The requirements of this subsection shall be complied with prior to the device being returned to operation.

H. If the jackpot is \$100,000 or more, the licensee shall notify the division immediately. A division agent shall be present prior to the opening of the electronic gaming device. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. Once a division agent is present, the electronic board housing the EPROM's shall be removed by a slot technician, the EPROM's shall be inspected and tested in a manner prescribed by the division. There shall be conformance to procedures as mentioned in Subsection D, E, F, and G. The payout form shall also be signed by a casino shift manager. The requirements of this subsection shall be complied with prior to the device being returned to operation.

I. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:2242 (November 1999), amended LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through July 10, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Accounting Regulations; Internal
Controls, Slots**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that there will be no direct effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0006#094

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Gaming Control Board**

Requirements for Licensing (LAC 42:XI.2405)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2405.B. in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950, et seq.

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

Chapter 24. Video Draw Poker

§2405. Application and License

A. - B.6 ...

B. Requirements for Licensing

7. All applications shall include the name of the owner(s) of the premises on which the establishment is located. Proof of current tax filings and payments, including tax clearance certificates from the state and all appropriate local taxing authorities shall be submitted to the division along with the annual fee as provided in Subsection B.4. no later than July 1 of each year.

B.8 - C.7 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through July 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Requirements for Licensing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be an increase on revenue collections of state or local government units since licensees will be required annually to be current in the payment of all state and local taxes in order to obtain tax clearance certificates. However, the amount of any increase cannot be estimated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No significant costs and/or economic benefits are estimated to result from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0006#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Public Safety and Corrections
Gaming Control Board**

Structural Requirements for Licensed Establishments
(LAC 42:XI.2415)

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

Chapter 24. Video Draw Poker

§2415. Gaming Establishments

A. - C.3. ...

D. Structural Requirements for Licensed Establishments

1. - 5. ...

6.a. In order to obtain multiple licenses for video draw poker device operation by the same owner within a single building structure, each facility shall be a single, physically separate and noncontiguous place of business which meets all other applicable requirements of Subsection D.

b. In addition to the requirements of Subsection D.6.a., bars, taverns, cocktail lounges and clubs shall:

i. have separate and independent beverage preparation areas,

ii. prepare, dispense, and sell alcoholic beverages for on-premises consumption;

iii. have a person whose primary duty is tending bar on duty while the bar, tavern, cocktail lounge or other facility is open for business and has a permanently affixed wet bar facility including plumbing and sinks; and

iv. be able to accommodate a minimum of 25 patrons.

c. Same ownership as provided in Subparagraph D.6.a. exists when:

i. the building and the bars, taverns, cocktail lounges, clubs or other facilities are owned by the same person or persons;

ii. the building and the bars, taverns, cocktail lounges; clubs or other facilities are owned by different legal entities which are owned by the same person or persons;

iii. the building is leased to persons or entities who also own or lease the bars, taverns, cocktail lounges, club or other facilities;

iv. the owner of the building leases the bars, taverns, cocktail lounges, clubs or other facilities to the same person, persons or entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 26:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through July 9, 2000, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Structural Requirements for Licensed
Establishments**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Adoption of rules requiring physically separate and noncontiguous facilities for the placement of video draw poker devices will result in fewer such devices in operation. No increase or reduction in revenue collections is expected to occur in FY 00-01. For FY 2001-2002, it is estimated that state and local government revenues will be reduced \$1,179,672 (State - \$884,754, Local - \$294,918). For FY 2002-2003, it is estimated that state and local government revenues will be reduced \$1,463,216 (State - \$1,907,412, Local - \$365,804).

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

For FY 2001-2001, it is estimated that device owners and licensed establishments will have a reduction in revenue in the amount of \$3,337,432. For FY 2002-2003, it is estimated that device owners and licensed establishments will have a reduction in revenue of \$4,164,507.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0006#095

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Manufactured Housing
(LAC 55:V.521, 535, and 543)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S.51:911.32.A(2), the Office of the State Fire Marshal proposes to amend the *Louisiana Administrative Code*, Title 55, Part V, Manufactured Housing. This proposed rule is intended to accompany Act 92 of the First Extraordinary Session of 2000, which amended and reenacted R.S. 51:912.21 and R.S. 51.912.27 to provide for installation permit stickers to prevent unlicensed persons from installing manufactured homes and to provide penalties for unlicensed installation.

The text of this proposed rule may be viewed in the Emergency Rule Section of this Edition of the Louisiana Register

Any interested person may submit written comments regarding the contents of the proposed rule to Tony Walker, Attorney Office State Fire Marshal, 5150 Florida Blvd., Baton Rouge, LA, 70806. All comments must be received no later than 4:30 p.m., July 20, 2000.

Nancy VanNorwick
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Manufactured Housing

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Costs associated with the implementation of this rule are related to installation permits and stickers totaling \$3,102. In addition, the General Appropriations Bill for FY 00-01 is expected to include \$450,000 in self-generated revenue through the fees generated by Act 92 of the 2000 First Extraordinary Session. These funds would allow the Fire Marshal to hire an additional seven (7) positions to increase the number of inspections performed on manufactured homes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be an increase in revenue to the State based on the number of fines issued in Louisiana as well as fees generated from the issuance of installation permit stickers. These new sources of revenue were authorized by Act 92 of the 2000 First Extraordinary Session.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Industry costs are projected to be \$153,750 in fines and \$450,000 in fees. The projected revenue fines is based on prior history.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect upon licensed installers or dealers who make proper installations other than payment of \$15 fee per sticker. Enforcement actions will be directed against improper installations and particularly against unlicensed installers.

Nancy VanNortwick
Undersecretary
0006#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of the General Counsel**

**Outdoor Advertising and Unique Traffic Generators
(LAC 70:I.112 and 205)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a rule entitled "Outdoor Advertising Unique Traffic Generators," in accordance with R.S. 48:461 and R.S. 32:238(B).

Title 70.

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertisement

Subchapter A. Outdoor Advertising Signs

§112. Unique Traffic Generators

A. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Specific Services Signing (LOGO). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 and R.S. 32:238(B).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 26:

Chapter 2. Installation of Tourist Oriented Directional Signs (TODS)

§205. Unique Traffic Generators

A. - G. ...

H. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Tourist Oriented Directional Signs (TODS). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 12:1596 (December 1993), LR 22:230 (March 1996), LR 26:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this notice of intent to Sherryl J. Tucker, Senior Attorney, Legal Section, Department of Transportation and Development, P.O. Box

94245, Baton Rouge, LA 70804-9245, telephone (225) 237-1359.

Kam K. Movassaghi, P.E., Ph.D
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Outdoor Advertising and Unique
Traffic Generators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units. This rule amends rules which originally established the Specific Services Signing (LOGO) Program in 1985 and the Tourist Oriented Directional Signs (TODS) Program in 1993. It allows the State Traffic Engineer the discretion to issue permits to businesses which do not otherwise qualify under the existing rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be only a minimal effect on revenue collections of state government and no more than five additional businesses to be accommodated under either program. (This number is limited by the number of spaces currently available, as well as business interest.) Five additional businesses added to the LOGO Program would generate \$600.00 per business per year for a total of \$3,000.00 annually. Five additional businesses added to the TODS program would generate \$37.50 per business per year for a total of \$187.50 per year. The estimated total increase in revenues is \$3,187.50 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Businesses which hereto were unable to qualify for LOGO or TODS Signing would benefit economically from the advertising afforded by these programs. The economic benefit should outweigh the fee, i.e. \$600 per business annually for a LOGO sign and \$37.50 per business annually for a TODS sign.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Allowing more businesses to participate in the LOGO and TODS programs will have a minimal, but positive, effect on competition and employment.

Kam K. Movassaghi, P.E., Ph.D
Secretary
0006#105

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Weights and Standards**

**Annual Heavy Equipment Permit
(LAC 73:I.315)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and

Development intends to promulgate a rule entitled "Weights and Standards Annual Heavy Equipment Permit," in accordance with R.S. 32:387.14.

Title 73

TRANSPORTATION

Part I. Office of Weights and Standards

Chapter 3. Oversize and Overweight Permit

§315. Annual Heavy Equipment Permit

A. Requirements

1. **Maximum Weight.** This permit may be issued by the department for the operation of vehicles transporting heavy equipment with a gross vehicle weight not to exceed 120,000 pounds.

2. **Maximum Dimensions.** Oversize dimensions of 14 feet 4 inches in maximum height, 12 feet 0 inches in maximum width, 90 feet 0 inches in maximum length, and a maximum rear overhang of 15 feet 0 inches shall be allowed under this permit and included in the cost of this permit. Loads with dimensions exceeding the envelope vehicle described above must obtain a separate oversize/overweight trip permit.

B. **Routing.** Vehicles which are issued this permit are prohibited from crossing bridges posted for 25 tons or less and from travel in restricted construction zones. Routing, which includes all vertical clearances, will be the responsibility of the permittee.

C. **Permit Price.** The cost of the permit is \$2,500.00 per year, the maximum price set forth in R.S. 32:387.14. Permits expire one year from the beginning movement date. The permit will be issued for the pulling unit and is non-transferable and non-refundable.

D. Axle Requirements

1. **Overweight vehicle combinations** with a gross vehicle weight from 80,000 pounds to 108,000 pounds are required to have a minimum of five load-carrying axles.

2. **Overweight vehicle combinations** with a gross vehicle weight from 108,000 pounds to 120,000 pounds are required to have a minimum of six load-carrying axles.

E. **Methods of Payment.** The cost of the permit may be paid by the following methods:

1. charge account;
2. credit card (master card or visa);
3. check;
4. cashiers check; or
5. money order.

Permittee must send the appropriate payment or payment information (account number, credit card information, etc.), accompanied by a completed application form and signed agreement form, to the Truck Permit Office, Department of Transportation and Development, P.O. Box 94042, Baton Rouge, Louisiana 70804-9042.

F. Permit Conditions

1. This permit must be carried within the vehicle using same, and must be available at all times for inspection by the appropriate authorities.

2. This permit is subject to revocation or cancellation by the department at any time.

3. The permittee assumes responsibility for and obligates himself to pay for any damages caused to highways, roads, bridges, structures, or any other state-owned property while using this permit. Issuance of the permit is not assurance or warranty by the state or the Department of Transportation and Development that the

highways, roads, bridges and structures are capable of carrying the vehicle and load for which this permit is issued; nor shall issuance stop the state or said department from any claim which may arise for damage to its property.

G. **Indemnification.** The permittee accepts the permit at his own risk. The permittee must agree to defend, indemnify and hold harmless the department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, cost or expense including attorney fees sustained by reason of the exercise of the permit, whether or not the same may have been caused by negligence of the department, its agents or employees. By exercising this permit, permittee certifies that the information supplied by him contained in his permit application is correct; that he made application to induce the issuance of the permit; that he fully understands all the provisions and requirements of the permit and of said R.S. 32:388(B)(I) and 32:387.14; and that he accepts all conditions and assumes all of the obligations imposed thereby.

H. **Movement Days and Times.** Vehicles exercising this permit are prohibited from traveling on certain holidays designated by the department. If all of the oversize dimensions are within legal limits, the vehicle will be granted 24 - hour movement, as well as holiday movement.

I. **Weather.** Permitted vehicles are prohibited from traveling during weather which is physically severe, such as extremely heavy rain, heavy fog, icy road conditions, heavy snow, or any continuous condition which creates low visibility for drivers or hazardous driving conditions.

J. **Speed Limits.** The permitted vehicle is not to exceed a speed limit of 55 miles per hour.

K. **Curfews.** The load may not cross any bridge spanning the Mississippi River in the New Orleans area or be within two miles of such bridge from 6:30 - 9:00 a.m. and from 3:30 - 6:00 p.m. Monday through Friday.

L. **Flags and Warning Signs.** Flags not less than 18 inches square are required for vehicles and loads which exceed the legal width. Vehicles and loads exceeding 10 feet in width, exceeding legal length or the legal rear end overhang must display signs with the wording oversize load. All warning signs must be at least 7 feet long and 18 inches high. The background must be yellow and the letters black. Letters must be at least 10 inches high with a brush stroke of 1 1/2.

M. Following is a model of the permit application form.

Heavy Equipment Annual Permit Application

Customer Number:	Requested Beginning Date:
Company Name:	
Address: City: State: Zip:	
Truck Make/Model:	Serial Number (Vin):
License Number:	State:

Permittee Signature

Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:387.14.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 26:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this notice of intent to James B. Norman, Weights & Standards Enforcement and Vehicle Permits Administrator, P.O. Box 94042, Baton Rouge, Louisiana 70804, telephone (225)377-7100.

John P. Basilica, Jr.
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Annual Heavy Equipment Permit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule is being promulgated pursuant to the provisions of Act 121 of the First Extraordinary Session of the 2000 Louisiana Legislature. It will cost the Department of Transportation and Development approximately \$27,000.00 (one time) to modify its permit computer program so that it will perform all functions related to the issuance of its new permit. The contractor who developed the program estimates that approximately 120 man-hours at \$225.00 per hour will be necessary to perform the work. Total cost would equal 120 hours x \$225.00 = \$27,000.00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An estimated 12,447 different trucks were part of a 12-month study of combinations of vehicles transporting loads with gross vehicle weights in the 80,001 to 120,000 lb. Range. It was estimated that approximately 15% of these loads traveled regularly enough to justify considering the purchase of the annual heavy equipment permit. Therefore, the total estimated revenues to be generated from the sales of the new permits would equal 12,447 (trucks) x .15 x \$2500.00 (the annual fee) = \$4,626,015.00. Actual sales during the 12 - month period for individual permits for these trucks were approximately \$4,626,015.00. Therefore, implementation of the new permit would result in a sales increase of approximately (\$4,667,625.00 - \$4,626,015.00 =) \$41,610.00.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The truck owners who avail themselves of these permits should see a positive economic benefit. They will save time because they will purchase one permit per truck per year, rather than multiple trip permits. Depending upon how many trucks they have and how often they make trips, they may also save money on the costs of their permits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This new permit should have a positive effect on competition and employment.

John P. Basilica, Jr.
Undersecretary
0006#103

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Black Drum Size Limit, Daily Take Possession
Limits and Quotas (LAC 76:VII.331)**

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.331, abolishing the monthly reporting requirement for the commercial take of black drum over 27 inches total length. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishing
§331. Black Drum Size Limits, Daily Take, Possession
Limits, and Quotas**

A. - A.2. ...

3. The maximum legal size for the recreational taking of black drum shall be 27 inches total length; provided however that recreational fishermen shall be allowed to take and possess no more than one black drum per day over 27 inches. It is provided further that commercial harvesters using legal gear shall be allowed to take and possess and sell black drum over 27 inches in unlimited quantities until the annual quota has been met in compliance with all other rules and regulations.

4. The annual commercial quota for 16 to 27 inch black drum shall be 3,250,000 pounds.

5. The annual commercial quota for black drum over 27 inches shall be 300,000 fish.

6. The fishing year for black drum shall begin on September 1, 1990 and every September 1 thereafter.

7. Once the black drum commercial quota(s) has been met, the purchase, barter, trade or sale of black drum taken in Louisiana after the closure is prohibited. The commercial taking or landing of black drum in Louisiana, whether caught within or without the territorial waters of Louisiana after the closure is prohibited. Nothing in this rule shall be deemed to prohibit the possession of fish legally taken prior to the closure order.

8. The secretary of the Department of Wildlife and Fisheries shall, by public notice, close the commercial fishery(s) for black drum when the quota(s) has been met or is projected to be met. The closure shall not take effect for at least 72 hours after notice to public.

AUTHORITY NOTE: Promulgated in accordance with, R.S. 56:6(10), R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:698 (August 1990), LR 26:

NOTICE OF INTENT

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

Pompano Permits (LAC 76:VII.703)

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: Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Black Drum Size Limit, Daily Take
Possession Limits and Quotas**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused on a single reporting system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change abolishing the monthly reporting and special permit requirements will directly impact commercial harvesters of black drum over 27 inches in state waters. The change will reduce the amount of paperwork required and will allow commercial harvesters of black drum over 27 inches more time to perform other activities. There are currently 128 permitted commercial harvesters of black drum over 27 inches.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
0006#086

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.703, abolishing the monthly reporting requirement for the commercial harvest of Florida pompano. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 7. Experimental Fisheries Program

§703. Pompano Permits

A. Harvest Regulations

1. - 2. ...

3. When operating under the conditions of a permit, only pompano can be retained. All other species shall be immediately returned to waters from which they were caught. No other fish may be in the possession of the permittee and all fish on board the permitted vessel shall have the head and caudal fin (tail) intact.

4. The permittee shall have the permit in possession at all times when using permitted gear or harvesting permitted specie(s). Permit holder shall be on board permitted vessel when operating under conditions of permit. No permit is transferable without written permission from the department secretary.

5. When permitted gear is on board permitted vessel or in possession of permittee, permittee and vessel are assumed to be operating under conditions of the permit. No gear other than permitted gear may be on board or in possession of permittee.

6. Any violation of the conditions of the permit shall result in the immediate suspension of the permit, and may result in the permanent revocation of the permit.

7. For permitting purposes, a pompano net shall be defined as a pompano strike net not exceeding 2400 feet in length and not smaller than 2-1/2 inches bar or 5 inches stretched mesh, that is not anchored or secured to the water bottom and that is actively worked while being used. A pompano net shall not be constructed of monofilament.

8. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the operator's permit number printed on it in at least eight-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

9. Pompano strike nets may be used during the period from August 1 through October 31 of each year in waters in excess of seven feet in depth and beyond 2,500 feet from land (excluding islands) within the Chandeleur and Breton Sound area described in R.S. 56:406(A)(2).

10. No person shall fish under this permit during the hours after sunset and before sunrise. No person shall fish under this permit on Saturday or Sunday of any week during the open season, or on Labor Day.

11. Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take pompano. The department shall not issue any tag to a person who does not have a social security number.

12. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

13. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

14. - B. 4. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a) and R.S. 56:406A(3).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), amended LR 12:846 (December 1986), amended by the Office of Fisheries, LR 16:322 (April 1990), LR 22:859 (September 1996), LR 26:

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 Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pompano Permits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused to a single reporting system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change abolishing monthly reporting requirements will directly affect commercial harvesters of Florida pompano in state waters. The change will reduce the amount of paperwork required and allow commercial harvesters of Florida pompano more time to fish, conduct maintenance on their equipment or concentrate on other activities. There are currently 10 permitted commercial harvesters of Florida pompano.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

Thomas M. Gattle, Jr.
Chairman
0006#088

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Harvest of Mullet
(LAC 76:VII.105)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.343, abolishing the monthly reporting requirement for the commercial harvest of striped mullet. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§343. Rules for Harvest of Mullet

A. - D. ...

E. Permits

1. - 3. ...

4. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take mullet and shall be forever barred from receiving any permit or license to commercially take mullet.

F. General Provisions. Effective with the closure of the commercial season for mullet, there shall be a prohibition of the commercial take from Louisiana waters, and the possession of mullet on the waters of the state with commercial gear in possession. Nothing shall prohibit the possession, sale, barter or exchange off the water of mullet legally taken during any open period provided that those who are required to do so shall maintain appropriate records in accordance with R.S. 56:306.4 and R.S. 56:345 and be properly licensed in accordance with R.S. 56:303 or R.S. 56:306.

G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325.1, R.S. 56:333 and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992) amended LR 21:37 (January 1995), LR 22:236 (March 1996), LR 24:359 (February 1998), LR 26:

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: Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Rules for Harvest of Mullet

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused to a single reporting system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change abolishing monthly reporting requirements will directly impact commercial harvesters of striped mullet in state waters. The change will reduce the amount of paperwork required by commercial harvesters of striped mullet and will allow them more time to fish, conduct maintenance on their equipment, or concentrate on other activities. There are currently 324 permitted commercial harvesters of striped mullet.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

Thomas M. Gattle, Jr.
Chairman
0006#090

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Spotted Seatrout Management Measures
(LAC 76:VII.341)**

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.341, abolishing the monthly reporting requirement for the commercial harvest of spotted seatrout. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. - 4.c. ...

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

B. Commercial Taking of Spotted Seatrout Using Mullet Strike Nets, Seasons

B.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S. 56:6(25)(a); R.S. 56:325.3; R.S. 56:326.3; and Act 1316 of the 1995 Regular Legislative Session, R.S. 56:325.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:

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. Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act#1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

0006#089

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Traversing Permit (LAC 76:VII.403)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule, LAC 76:VII.403, abolishing the monthly reporting requirement for traversing permit holders. Authority for adoption of this Rule is included in R.S. 56:6(25)(a). Said Rule is attached to and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 4. License and License Fees

§403. Traversing Permit

A - G. ...

H. Permittees will be required to abide by the following conditions.

1. - 2. ...

3. When permitted gear is on board the permitted vessel or in possession of the permittee, the permittee and the vessel are assumed to be operating under authority of the permit. No gear other than gear allowed under the Traversing Permit may be on board the vessel or in possession of the permittee.

4. The vessel authorized for use under the Traversing Permit shall have distinguishing signs so that it may be identified as such. The signs shall have the letters "EEZ" and assigned numbers printed on them in at least 10-inch high letters and numbers on a contrasting background in block style so as to be visible and legible from low-flying aircraft and from any vessel in the immediate vicinity. The assigned numbers shall be situated on both sides and on top of the vessel.

5. The department reserves the right to observe the operations taking place under the Traversing Permit and, at its request, the department may assign aboard any permitted vessel an enforcement agent as an observer.

6. All permittees shall notify the department four hours prior to leaving port to traverse or fish under the conditions of the Traversing Permit and immediately upon returning from the permitted trip. The department shall be notified by calling a designated phone number.

7. The permittee must report to the department the name of the buyer who will purchase the fish product obtained under the Traversing Permit. This information shall be provided at the time that permittee notifies the department of his return.

8. When quotas have been met or seasons have been closed, no fish affected by such quotas or seasons may be possessed on board a vessel while having commercial gear on board traveling state waters.

9. Any violation of the conditions of the Traversing Permit and any violation of any fisheries regulation shall be punishable as defined by R.S. 56:320.2.D.(1) in accordance with Act 1316 of the 1995 Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:305.B, and R.S. 56:320.2.E.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:240 (March 1996), LR 26:

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 Randy Pausina, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, August 5, 2000.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Traversing Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A slight savings in operating costs (paper, copying, and postage) will result with the implementation of this rule. Marine Fisheries' personnel will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow Marine Fisheries to direct effort to other projects. Enforcement effort will be focused to a single reporting system.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenues to state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation change abolishing monthly reporting requirements will directly impact commercial harvesters that harvest in the federal exclusive economic zone (EEZ) with gill nets, trammel nets, or seines and land their catch in Louisiana. The change will reduce the amount of paperwork required and will allow harvesters more time to fish, conduct maintenance on their equipment or concentrate on other activities. There are currently 70 traversing permits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
0006#087

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment

Revision of the Waste Tire Regulations
(LAC 33:VII.Chapter 105)(SW027)

Notice is given that the Department of Environmental Quality is hereby withdrawing proposed rule, Log #SW027, which amended the Solid Waste Regulations, LAC 33:VII.Chapter 105, Waste Tires. The proposed rule was published in the May 20, 2000, issue of the *Louisiana Register* on pages 1123-1135. Consequently, the public hearing for this regulation scheduled for June 26, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA has been canceled.

The department plans to propose a similar rule at a later date. If you have any questions, please call Patsy Deaville at (225) 765-0399.

James H. Brent, Ph.D
Assistant Secretary

0006#092

POTPOURRI

Department of Health and Hospitals Office of Public Health

Maternal and Child Health Block Grant

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child (MCH) Block Grant Federal Funding for FY 2000-2001 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Maternal and Child Health Section, is responsible for program administration of the grant.

The Block Grant Application describes in detail the goals and planned activities of the State Maternal and Child Health Program for the next year. Program priorities are based on the results of a statewide needs assessment, which is also described in detail in the application.

Interested persons may request copies of the application from:

State of Louisiana
DHHC Office of Public Health
Maternal and Child Health Room 612
P.O. Box 60630
New Orleans, LA 70160

Additional information may be gathered by contacting Kim Simonian at (504) 568-5073.

David W. Hood
Secretary

0006#096

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
Busch Everett Company	Caddo Pine Island	Dr G M Huckaby	002	990432
Comco of Louisiana, Inc.	Logansport	PXY SUQ;Creech	001	205144
Midla, Ltd.	San Miguel Creek	Ray Canton	002	167474
Tommy Neal & Associates	Port Barre	Haas-Hirsch	001	076491
Tolbert et al	Caddo Pine Island	Loyd	001	173858
Tolbert et al	Caddo Pine Island	Loyd	002	179752
Tolbert et al	Caddo Pine Island	Loyd	003	182396
Tolbert et al	Caddo Pine Island	Loyd	005	190996
Vivian Oil Company	Caddo Pine Island	Fee land	003	990431

Philip N. Asproditos
Commissioner

0006#070

POTPOURRI

Department of Natural Resources Office of Conservation

Request for Commercial Exploration and Production
Waste Transfer StationCLaFourche Parish

Pursuant to the provisions of the laws of the State of Louisiana and particularly Title 30 of the Louisiana revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Wednesday, August 9, 2000, in the Thibodaux City Courtroom, located on the 2^d Floor of the Starks Municipal Complex, 1309 Canal Blvd., Thibodaux, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Trinity Storage Services, L.P., 3700 Buffalo Speedway, Suite 1000, Houston, Texas 77098-3705. The applicant requests authorization to operate a commercial exploration and production (E&P) waste transfer station and recycling facility in LaFourche Parish, Louisiana. Applicant requests authorization to receive, store, recycle, reclaim, and transfer RCRA-exempt exploration and production wastes generated from the drilling and production of oil and gas wells. Applicant intends to process certain wastes into liquid recycled products and transfer non-recyclable E&P wastes to the applicant's licensed facility in Texas. The proposed facility will be located in the C-Port 2 marine complex at 130 4th Street, Port Fourchon, Louisiana, in Township 23S, Range 22E, Section 14 of LaFourche Parish.

The application is available for inspection by contacting Mr. Gary Snellgrove, Office of Conservation, Injection & Mining Division, Room 253 of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana, or by visiting the LaFourche Parish Council Office in Thibodaux, Louisiana, or the LaFourche Parish Library in Golden Meadow, Louisiana. Verbal information may be received by calling Mr. Snellgrove at (225) 219-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, August 16, 2000, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
 Injection and Mining Division
 P.O. Box 94275
 Baton Rouge, Louisiana 70804
 Re: Docket No. IMD 2000-04

Commercial Facility
 Lafourche Parish

Philip N. Asprodites
 Commissioner of Conservation

0006#108

POTPOURRI

**Department of Natural Resources
 Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1, et seq., notice is given that 11 claims in the amount of \$28,356.57 were received for payment during the period May 1, 2000 - May 31, 2000. There were 10 claims paid and one claim denied.

Loran Coordinates of reported underwater obstructions are:

26603	46977	CAMERON
26631	46980	CAMERON
27473	46963	IBERIA
28854	46994	ST BERNARD

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

0006#091

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