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EMERGENCY RULES

DECLARATION OF EMERGENCY

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

Additional Disproportionate Share-Indigent Pool

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medical Assistance Program.

Medicaid currently reimburses for inpatient care in either a free-standing psychiatric hospital or an acute care general hospital with a methodology which includes an adjustment for hospitals serving a disproportionate share of low-income patients as well as an additional disproportionate share adjustment which utilizes different qualifying criteria and payment adjustment methodology. Previously there has been no limit on the amounts of disproportionate share adjustment payments, but as a result of Public Law 102-234, a national and statewide cap has been placed on disproportionate share adjustment payments beginning October 1, 1992. Louisiana is already over the base state allotment for disproportionate share payments of 12 percent of its total Medicaid expenditures projected for Federal Fiscal Year (FFY) 1993, and is therefore capped at the amount of disproportionate share expenditures in FFY 1992. In federal regulations promulgated November 24, 1992 (FR Vol. 57, No. 227, pages 55118-55265), the national cap of 12 percent is projected to also be exceeded, resulting in reductions to each state's allotment proportional to the percentage of each state's DSH base allotment to the total of all state DSH base allotments multiplied by the amount that all state DSH base allotments exceed the aggregate national 12 percent DSH spending limit. As Louisiana is a high DSH state and already projects disproportionate share payments in FFY 93 in excess of its allotment, a change in the methodology for determining disproportionate share adjustment payments is being implemented to ensure that DSH expenditures remain within the cap imposed by P. L. 102-234 and the HCFA regulations promulgated to implement this law.

This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This emergency rule will ensure that other services for health care to the needy of the state would remain available as otherwise reductions in these services may result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap. An emergency rule was adopted on January 1, 1993 and published in the January 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 1 on disproportionate share

payments based on a pool of indigent days. This emergency rule is being redeclared effective May 1, 1993 to insure the continuation of the following provisions for disproportionate share payments.

EMERGENCY RULE

Effective for dates of service May 1, 1993, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient hospital services to provide for an additional disproportionate share payment for hospitals which utilize payment based on the number of indigent care inpatient days (exclusive of Medicaid inpatient days) in a pool of all such days for all qualifying disproportionate share hospitals. Qualifying hospitals whose free care data does not reflect a full year shall have days annualized for purposes of the pool. A lump sum payment will be made annually to each disproportionate share hospital equal to the product of the ratio of each hospital's total indigent care days in the prior state fiscal year, divided by the total indigent inpatient days in the same period by all disproportionate share hospitals, multiplied by an amount of funds to be determined by the director of the Bureau of Health Services Financing, but not to exceed in the aggregate the total cap on disproportionate share expenditures established under P. L. 102-234.

All hospital indigent care (free care) plans must be submitted to and approved by the Bureau of Health Services Financing and may not exceed the income eligibility criteria established under Hill-Burton criteria of 200 percent of the federal poverty level.

This additional disproportionate share payment may be payable to all qualifying disproportionate share hospitals (acute care general, free-standing psychiatric hospitals, and distinct part psychiatric units) in addition to other disproportionate share payments.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing is scheduled on this matter on Tuesday, May 25, 1993 at 9:30 a.m. in the Auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, LA. Copies of this proposed rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Certified Medicaid Enrollment Centers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B). An emergency rule was adopted on December 22, 1992, and is being redeclared to continue the provision for the cost reimbursement of the Medicaid enrollment centers.

Current federal law which requires states to outstation Medicaid eligibility workers at sites other than welfare offices, including Federally Qualified Health Clinics (FQHCs), and disproportionate share hospitals. Although these workers are not authorized to issue final eligibility determination for Medicaid applicants, they are certified by the Bureau of Health Services Financing to interview the applicant and to complete the Medicaid application forms.

Certification to participate in this program is granted to those providers and other agencies which complete the required instructional training, in addition to completing all necessary documentation. This group of qualified enrollment centers includes a wide variety of facilities and agencies, including non-for-profit agencies such as councils on aging and community action agencies, and particularly those mandated by federal law.

Enrollment centers will be eligible for a 50 percent reimbursement to offset administrative costs incurred from the completion of Medicaid applications. These enrollment centers will be responsible for completing and submitting a cost reimbursement form which will be provided by the Bureau of Health Services Financing. The format, structure and detailed requirements of this cost reimbursement program are subject to change upon final approval from the federal regulatory agency, Health Care Financing Administration (HCFA).

EMERGENCY RULE

Effective April 20, 1993, certified Medicaid enrollment centers are eligible for a 50 percent cost reimbursement to offset administrative costs incurred during the process of taking Medicaid applications. Reimbursement is granted in the form of a uniform, flat-fee rate on a per-application basis.

This rate is established by calculating the weighted-average hourly cost associated with completing a typical Medicaid application form. This calculation is generated through a random sampling survey conducted by the Bureau of Health Services Financing.

Reimbursement will only be issued on those applications which are taken by certified individuals. The application does not have to be approved by the regional Medicaid eligibility office in order for the reimbursement to be issued. However, certified enrollment centers will be subject to an audit program, and based on audit findings, any enrollment center that has above-average denial rates for the applications which

it has submitted will be ineligible for reimbursement until such time that the respective enrollment center lowers its denial rate to a point within the established norm.

Enrollment centers are responsible for submitting a cost reimbursement form which will be provided by the Bureau of Health Services Financing.

The format, structure and detailed requirements of this cost reimbursement program are subject to change upon final approval of the Health Care Financing Administration.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to John L. Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed rule. A public hearing on this matter was held Monday, March 29, 1993. Copies of this emergency rule and all other Medicaid regulations are available for review at parish Medicaid offices.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Disproportionate Share Adjustment Payment Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program.

Medicaid currently reimburses for inpatient care in either a free-standing psychiatric hospital or an acute care general hospital with a methodology which includes an adjustment for hospitals serving a disproportionate share of low-income patients. Previously there has been no limit on the amounts of disproportionate share adjustment payments, but as a result of Public Law 102-234, a national and statewide cap has been placed on disproportionate share adjustment payments beginning October 1, 1992. Louisiana is already over the base state allotment for disproportionate share payments of 12 percent of its total Medicaid expenditures projected for federal fiscal year (FFY) 1993, and is therefor capped at the amount of disproportionate share expenditures in FFY 1992. In federal regulations promulgated November 24, 1992 (FR Vol. 57, No. 227, pages 55118-55265), the national cap of 12 percent is projected to also be exceeded, resulting in reductions to each state's allotment proportional to the percentage of each state's DSH base allotment to the total of all state DSH base allotments multiplied by the amount that all state DSH base allotments exceed the aggregate national 12

percent DSH spending limit. As Louisiana is a high DSH state and already projects disproportionate share payments in FFY 93 in excess of its allotment, a change in the methodology for determining disproportionate share adjustment payments is being implemented to ensure that DSH expenditures remain within the cap imposed by P. L. 102-234 and the HCFA regulations promulgated to implement this law. Based on current projections for DSH payments, it is projected that the DSH payments shall be reduced by \$250,000,000 as a result of the implementation of this rule change regarding the methodology for determining disproportionate share adjustment payments for inpatient hospital services (acute and psychiatric). This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This emergency rule will ensure that other services for health care to the needy of the state would remain available as otherwise reductions in these services may result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap.

EMERGENCY RULE

Effective for dates of service May 1, 1993, the Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient hospital services to differentiate by type of hospital (teaching and non-teaching) for hospitals employing the low-income utilization methodology and to separately calculate the disproportionate share adjustment for distinct part psychiatric units. The text of this emergency rule was printed in its entirety in the January 1993 issue of the *Louisiana Register* on pages 7-8.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. Copies of this rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule, for 120 days, in the Medicaid Program.

Medicaid implemented via emergency rulemaking published in the January 20, 1993 *Louisiana Register*, (Vol. 19, No. 1, pages 7-8) a change in the methodology for calculating disproportionate share adjustment payments to teaching and non-teaching hospitals as well as distinct part psychiatric units of acute care general hospitals. A similar rule placing a cap on reimbursement to freestanding psychiatric hospitals, including disproportionate share payments was also published in the January 20, 1993 *Louisiana Register* (Vol. 19, No. 1, pages 19-20). These rules were intended to modify the methodology for calculating disproportionate share payments to ensure compliance with the cap on disproportionate share adjustment payments as a result of Public Law 102-234. Further evaluation of the issue has indicated that the January 1, 1993 changes will not ensure that the cap is not exceeded in federal fiscal year 1993 (FFY 93). Restructuring of the methodology is necessary to ensure compliance with the cap established under P. L. 102-234 and federal regulations published November 24, 1992 (*Federal Register*, Vol. 57, No. 227, pages 55118-55265). Therefore, the above-referenced rules published effective January 1, 1993 are rescinded and superseded by the following rules, subject to review and approval by HCFA. If federal approval is not received, the above-referenced rules published effective January 1, 1993 shall remain in effect. This action is necessary to reduce the projected DSH payments to a level that will remain under the cap and results in a reduction of \$265,553,357 in FY 93-94. This proposed rule will ensure that other services for health care to the needy of the state would result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap. An emergency rule was adopted on this issue on March 1, 1993 and was published in the March 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 3. This emergency rule provides further clarifications regarding procedures for implementing the March 1, 1993 emergency rule.

EMERGENCY RULE

Effective April 1, 1993 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is amending the methodology for calculating the amount of disproportionate share payments for inpatient hospital services by acute care general hospitals, distinct part psychiatric units of acute care general hospitals and free-standing psychiatric hospitals. Below are the revised methodologies as modified in the State Plan:

Attachment 4.19A, Items 1, 14 and 16

Methodology for Disproportionate Share Adjustment

Effective for dates of service March 1, 1993 and after, qualification for and calculation of disproportionate share payments shall be based on the latest filed fiscal year end cost report as of March 31 of each year. Hospitals which meet the qualification criteria outlined in Item 1, D. 1. a-d, based on the latest filed fiscal year end cost report as of March 31 of each year, shall be included in one of the three following pools for calculation of disproportionate share adjustment payments. A one time provision for transition to the new methodology for disproportionate share payments shall provide that hospitals filing a minimum of a three-month interim cost report and which meet all qualification criteria shall be

"grandfathered" into the pools. Qualifying hospitals with cost reports which do not reflect a full year shall have days annualized for purposes of the pools.

Qualifying disproportionate share hospitals with Medicaid utilization rates 25 percent greater than the Medicaid utilization's qualifying threshold (the mean plus one standard deviation of the Medicaid utilization for all such hospitals in the state participating in Medicaid) shall be recognized as "Medicaid dependent hospitals". Medicaid dependent hospitals shall have days in the pool weighted by applying a factor of up to 1.25 to actual days in the pool. In determining pool payments, total days before adjustment shall remain the same while days for Medicaid dependent hospitals shall be increased by the factor noted above. Disproportionate share payments for each pool shall be calculated based on the product of the ratio of each qualifying hospital's total Medicaid inpatient days for the applicable cost report as adjusted for annualization and Medicaid dependent statutes, divided by the total Medicaid inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools, multiplied by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Disproportionate share payments cumulative for all payments shall not exceed the federal disproportionate share cap for each federal fiscal year. Notice of the actual pool amounts shall be published prior to the issuance of the first payment each year. The total disproportionate share payment amount for each qualifying hospital shall be calculated after March 31 of each year and payments shall be issued via at least three payments throughout the year for services in the immediately preceding months. Monthly payments may be issued for a transition period from April through October 1993 to allow hospitals to adjust to cash flow changes in disproportionate share payments.

The three pools are as follows:

1) *Teaching Hospitals*—acute care general hospitals (exclusive of distinct part psychiatric units) recognized as approved teaching hospitals under Medicare principles for the latest filed fiscal year end cost report as of March 31 of each year.

2) *Non-teaching Hospitals*—acute care general hospitals (exclusive of distinct part psychiatric units) not recognized as approved teaching hospitals under Medicare principles for the latest filed fiscal year end cost report as of March 31 of each year.

3) *Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—distinct part psychiatric units of acute care general hospitals meeting the Medicare criteria for PPS exempt psychiatric units and enrolled under a separate Medicaid provider, and free-standing psychiatric hospitals recognized as such for the latest filed fiscal year end cost report as of March 31 of each year.

If at audit or final settlement of the pool base(s) cost reports, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported or annualized, appropriate action shall be taken to recover such overpayments. No additional payments shall be made if an increase in days is determined. No

redistribution of the "pool" shall occur because of changes resulting from adjustments at audit/settlement or subsequent amending of cost reports.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A public hearing will be held on this matter on Tuesday, May 25, 1993 at 9:30 a.m. in the Auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Facility Need Review - Downsized ICR/MR Beds

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1).

EMERGENCY RULE

Effective April 20, 1992, the Department of Health and Hospitals, Bureau of Health Services Financing, will require that before any Medical Assistance recipient is admitted to an intermediate care facility for the mentally retarded for services in a bed approved for Title XIX (Medicaid) reimbursement through the downsizing of a large residential facility (16 or more beds) to meet a specific disability need identified in a request for proposals issued by the department, prior approval of the person to be admitted to the facility first be obtained by the provider from the regional office of Mental Retardation/Developmental Disabilities. Therefore, the policies and procedures for facility need review are being revised as follows:

12501. Subsection F. Revocation of Approvals/Availability of Beds for Title XIX Recipients, page 5, the following shall be added as number 4:

When the Office of Mental Retardation/Developmental Disabilities advises Facility Need Review that a group or community home bed for the mentally retarded/developmentally disabled which was approved for Title XIX

reimbursement through the downsizing of a large residential facility (16 or more beds) to meet a specific disability need identified in a request for proposals issued by the department, is not being used to meet the need identified in the request, approval of the bed shall be revoked. This determination by the Office of Mental Retardation/ Developmental Disabilities shall be based on the facility serving a resident in the above referenced bed without prior approval from that office.

12502 A.6. Exception for Beds Approved from Downsizing Large Residential ICF/MRs (16 or more beds), page 8, the following shall be added as letter e:

Prior approval of all residents for admission to facilities in beds approved through downsizing to meet a specific disability need identified in a request for proposals issued by the department is required from the Office of Mental Retardation/Developmental Disabilities before admission.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this Emergency Rule. Copies of this emergency rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Home and Community Based Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule, for 120 days, under the Administrative Procedure Act, R.S. 49:953(B).

Under the provisions of Section 1915(c) of the Social Security Act, states may provide services not generally reimbursable by Medicaid to groups of individuals in the community who meet the qualifications for institutional care. Such programs are known as Home and Community Based Services (HCBS) waivers. Waivers are submitted to the Health Care Financing Administration (HCFA) of the Department of Health and Human Services (DHHS) for approval. Services under an approved waiver are reimbursed with a combination of state and federal funds at the current service match rate. Waiver recipients are also eligible for all services available under the state plan.

Louisiana currently has three approved and operating Home and Community Based Services waivers. The Adult Day

Health Care waiver serves a maximum of 300 elderly and adult disabled individuals who are eligible for nursing facility care, but who choose instead to receive day health services and live in their own homes. The Mental Retardation/Developmental Disabilities (MR/DD) waiver serves a maximum of 1,596 mentally retarded and developmentally disabled individuals who receive any or all of an array of 10 possible services in the community rather than institutional services in an Intermediate Care Facility for the Mentally Retarded (ICF/MR). The Personal Care Attendant waiver serves a maximum of 20 individuals who have lost motor or sensory capabilities and require only a personal care attendant to avoid care in a nursing facility.

The rule establishes a Home and Community Based Services waiver known as Home Care for the Elderly. The waiver will be implemented upon approval by HCFA. Under this waiver, a maximum of 222 individuals ages 65 or older who meet the medical and financial requirements for nursing facility care will be served. The maximum income available to the individual is set at three times the Supplemental Security Income (SSI) amount. Personal needs allowance for waiver applicants is also three times the SSI amount.

This emergency rule is necessary to ensure federal funding for home and community based services for this population group. The persons served under this waiver must meet the medical and financial requirements for nursing facility care; therefore, it is anticipated that implementation of this program will not create additional expenditures.

EMERGENCY RULE

Effective April 1, 1993, Home Care for the Elderly waiver services are provided under the provisions of the approved waiver agreement between the Health Care Financing Administration and Medicaid of Louisiana.

Disapproval of this waiver by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule and for providing information on a public hearing on this matter. All interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Hospital-Based Neurological Rehabilitation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule providing for the reimbursement of hospital Neurological Rehabilitation Care services in the Medicaid Program. This emergency rule is being published in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) and shall be in effect for the maximum period allowed.

Currently, hospitals are limited to the discharge rate and unable to cover their costs for providing neurological rehabilitation treatment services. This is due to the lack of an established reimbursement mechanism which covers the intensive services, specialized equipment and the program of rehabilitative care required for these patients. In-state hospitals capable of providing such services are reluctant to accept them due to the adverse effect on their overall reimbursement. Therefore, in order to meet the needs of Louisiana citizens, Medicaid of Louisiana is implementing a new reimbursement methodology to be identified as Intensive Neurological Rehabilitation Care Program. Medicaid of Louisiana has developed the medical criteria for the classification and reimbursement of this patient group who need a program of intense neurological rehabilitation care.

EMERGENCY RULE

Effective May 1, 1993, the Bureau of Health Services Financing shall implement a reimbursement methodology for a Neurological Intensive Rehabilitation Care Program in the hospital setting. This program is developed to meet the needs of Louisiana citizens who are Medicaid eligible and require intense rehabilitation care services for neurological injuries of recent onset. Hospital Neurological Intensive Rehabilitation Care services should extend throughout the post critical care recovery process not to exceed 90 days unless deemed medically necessary by the Department of Health and Hospitals.

The Intensive Neurological Rehabilitation Care Program reimbursement rates shall be prospective interim rates based on actual cost data. A rebasing of these initial rates shall occur after a full year of implementation of this program. This rebasing of the rates shall be based on actual costs as determined by on-site audits and cost reports. Subsequent rate adjustments may be made as warranted by on-site financial audits of the facility's actual costs so that future rates will be in accordance with audit findings and the accuracy of the rate components utilized in the determination process. Annual audits will be required as well as the submittal of additional cost reporting documents as required by the department.

Medicaid of Louisiana has developed the medical criteria which must be met in order for a Title XIX patient to be classified for reimbursement under a hospital Intensive

Neurological Rehabilitation Care Program. The hospital Intensive Neurological Rehabilitation Care services provide intensive, comprehensive, and interdisciplinary services to persons with an injury or illness resulting in residual severe deficits and disability in addition to a need for intensive medical support. The service needs are designed to reduce the patient's rehabilitation and medical needs while restoring the person to an optimal level of physical, cognitive, and behavioral function. The services provide care for patients who present a variety of medical/surgical concerns requiring a highly skilled level of nursing, medical, and/or rehabilitation interventions to maintain medical/functional stability. These patients are essentially too medically complex or demanding for a nursing rehabilitation setting and require the acute hospital setting.

Patients in need of hospital neurological intensive rehabilitation care services shall meet the following requirements:

1. The patient shall have an injury or condition that occurred within 48 hours prior to the date of admission for inpatient care. Patients served shall have severe loss of central nervous system functions as a result of a neurological injury or condition.

2. The patient shall have been determined, by a physician, to be appropriate for rehabilitation in the hospital setting to recover lost function or appropriate for assessment for determination of functional recovery potential.

3. The patient shall require five hours of rehabilitation therapy services, per day, as tolerable and appropriate, and a minimum of five hours of nursing care per day by licensed nurses. Rehabilitation therapy services will be available and provided, as tolerable and appropriate, at least five days per week. Examples of patients to be considered include, but are not limited to:

- a. traumatic brain injury;
- b. cerebral vascular accidents with severe neurologic;
- c. neoplasms of the central nervous system;
- d. neuro behavioral sequelae to the above.

4. The patient shall have complete neurological/medical/psychosocial assessments completed prior to admission to an Intensive Neurological Rehabilitation Care Program:

- a. history of current condition;
- b. presenting problems and current needs;
- c. preliminary plan of care including services to be rendered;
- d. initial goals and time frames for goal accomplishment.

These assessments shall clearly demonstrate the patients need for this care and expected benefits.

5. The patient shall have an assigned facility case manager to monitor and measure goal attainment and functional improvement. The facility case manager will be responsible for cost containment and appropriate utilization of services. The facility case manager will coordinate discharge planning activities if it has been determined that hospital Intensive Neurological Rehabilitation Care services are no longer required or appropriate.

6. The patient shall demonstrate progress toward the reduction of physical, cognitive, and/or behavioral deficits to

maintain eligibility for hospital Intensive Neurological Rehabilitation Care services funding.

The hospital seeking to provide services under this hospital Intensive Neurological Rehabilitation Care Program must meet the following requirements:

1. The hospital shall be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and by the Commission on Accreditation of Rehabilitation Facilities (CARF).

2. The hospital shall have appropriate rehabilitation services to manage the functional and psychosocial needs of the patients' services and appropriate medical services to evaluate and treat the pathophysiologic process. The staff shall have intensive specialized training and skills in rehabilitation.

3. The hospital shall have formalized policies and procedures to govern the comprehensive skilled and rehabilitation nursing care, related medical and other services provided. An interdisciplinary team approach shall be utilized in patient care. This team shall include, but is not limited to: a physician, a registered nurse (with special training/experience in rehabilitation and brain injury care/treatment), physical therapist, occupational therapist, speech/language therapist, respiratory therapist, psychologist, social worker, recreational therapist, and case manager.

4. The hospital shall have formalized policies and procedures to insure that the interdisciplinary health and rehabilitation needs of every hospital intensive neurological rehabilitation care patient shall be under the supervision of a licensed physiatrist, board certified in physical medicine and rehabilitation.

5. The hospital shall have formalized policies and procedures to insure a licensed physician visits and assess each patient's care frequently and no less than required by law, licensure, certifications and accreditations.

6. The hospital shall have formalized policies and procedures to furnish necessary medical care.

7. The hospital shall provide private rooms for patients demonstrating medical and/or behavioral needs. Dedicated treatment space shall be provided for all treating disciplines including the availability of distraction free individual treatment rooms/areas.

8. The hospital shall provide 24-hour nursing services to meet the medical and behavioral needs with registered nurse coverage 24 hours per day, seven days per week.

9. The hospital shall provide appropriate methods and procedures for dispensing and administering medications and biologicals.

10. The hospital shall have formalized policies and procedures for, and shall provide on a regular basis, ongoing staff education in rehabilitation, respiratory care, specialized medical services and other related clinical and non-clinical issues.

11. The hospital shall provide dietary services to meet the comprehensive nutritional needs of the patients. These services shall be provided by a registered dietician for a minimum of one hour per week.

12. The hospital shall provide patients' families and significant others the opportunity to participate in the coordination and facilitation of service delivery and personal treatment plan.

13. The hospital shall provide initial and ongoing integrated, interdisciplinary assessments to develop treatment plans which should address medical/neurological issues sensorimotor, cognitive, perceptual, and communicative capacity, affect/mood, interpersonal, social skills, behaviors, ADLs, recreation/leisure skills, education/vocational capacities, sexuality, family, legal competency, adjustment to disability, post-discharge services environmental modifications, and all other areas deemed relevant for the person.

14. The hospital shall provide a coordinated, interdisciplinary team which meets in team conference to update the treatment plan for each person at least every seven days and as often as necessary to meet the changing needs of the patient.

15. The hospital shall provide appropriate consultation and services to meet the needs of the patients, including but not limited to audiology, speech, orthotics, prosthetic, or any specialized services.

16. The hospital shall establish protocol for ongoing contact with vocational rehabilitation education, mental health, developmental disabilities, social security, social welfare, head injury advocacy groups and any other relevant public/community agencies.

17. The hospital shall establish protocol for close working relationships with other acute care hospitals capable of caring for persons with neurological trauma to provide for outpatient follow up, in service education and ongoing training of treatment protocols to meet the needs of the traumatic brain injury patients.

18. The hospital shall document the patient's progress in meeting goals in detail. If appropriate progress is not made or if goals are attained, the patient shall not be eligible for this program and the case manager shall coordinate discharge plans.

19. The hospital shall have policies and procedures to prevent admitting a patient to this program whose needs the hospital cannot meet.

20. The hospital shall not admit a patient to this program whose needs can be met at a lesser level of care.

21. The hospital shall make certain all professional and non-professional staff requiring licenses are dually licensed by the appropriate licensing authority.

Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule. A public hearing will be held on this matter on Tuesday, May 25, 1993, in the auditorium of the DOTD at 1201 Capitol Access Rd, Baton Rouge, LA at 9:30 a.m. Copies of this

emergency rule and all other Medicaid rules and regulations are available at Parish Medicaid Offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Long Term Care Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medicaid Program.

Under §1905 of the Social Security Act states may cover Long Term Care Services for the medically needy whose incomes are reduced below federal limits as a result of incurred medical expenses. Under this statutory option, Medicaid of Louisiana is expanding covered services to include vendor payment to nursing facilities for aged, blind, and disabled individuals whose incomes are above the federal CAP of \$1,266 per month but below the cost of care. In addition, this coverage is being made available to members of families with children whose incomes and/or resources exceed categorical program maximum limitations. This option will primarily benefit patients of nursing facilities whose incomes are insufficient to cover the cost of care. It is projected that 300-500 nursing facility patients, currently receiving limited state funded insurance coverage will benefit from this coverage expansion. While Medicaid expenditures will increase by approximately \$5 million per year, total state expenditures will decline from savings in the cost of providing 100 percent state funded reimbursement of incurred medical expenditures. This emergency rule is being readopted to continue federal funding through refinancing of state expenditures. An emergency rule was published in the January 20, 1993 issue of the *Louisiana Register* and a notice of intent was published in the March 20, 1993 issue.

EMERGENCY RULE

Effective May 10, 1993, Medicaid of Louisiana shall include Long Term Care Services provided by enrolled nursing facilities under the Medically Needy Program.

Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule. A public hearing is scheduled for Tuesday, April 27, 1993 in the

DOTD Auditorium at 1201 Capitol Access Road, Baton Rouge, LA. Copies of this emergency rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Medicaid-Nurse Aide Decertification

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1).

In accordance with the Omnibus Budget Reconciliation Act of 1987 and federal regulations under 42 CFR 483.154; the Bureau of Health Services Financing published a final rule in the *Louisiana Register* on August 20, 1991, on the certification of nursing aides under the Nursing Aide Training and Competency Evaluation Program which is administered by the Board of Examiners for Nursing Home Administrators. The rule also included provisions governing the investigation of allegations of neglect or abuse of residents and/or misappropriation of their property by a nurse aide employed in a nursing facility and the related matters of the administrative hearing under the Administrative Procedure Act R.S. 49:965 et seq. Under this emergency rule the Board of Examiners for Nursing Home Administrators must maintain a Nurse Aide Registry which includes documentation of any investigation showing codes for specific findings of residents' abuse, neglect, and/or misappropriated property and an accurate summary of findings after all required actions on such findings are finalized. However the earlier rule did not specifically provide for the decertification of nurses aides who were found to have committed such acts involving nursing facility residents. In addition, the rule does not provide for the inclusion of allegations of abuse, neglect or misappropriation of residents' property about a nurse aide on the Nurse Aide Registry. Therefore, in order to protect the health and welfare of nursing facility residents many of whom are particularly vulnerable from the possible harm, the following emergency rule is being adopted.

EMERGENCY RULE

Effective, April 20, 1993, the Bureau of Health Services Financing is incorporating the following provisions within the policies and procedures of the Nurse Aide Registry. All allegations of abuse, neglect and/or misappropriation of a resident's property by a nurse aide must be included in the documentation maintained by the Registry. In addition, a

nurse aide convicted of abuse, neglect or misappropriation of a resident's property shall be decertified permanently. Pending action against a nurse aide involving allegation of abuse, neglect or misappropriation of a resident's property shall be noted on the Nurse Aide Registry.

Disapproval of this change by HCFA will automatically cancel the provision of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires. A public hearing is scheduled for 9:30 a.m., Tuesday, April 27, 1993, DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this emergency rule and all other Medicaid rules and regulations are available at Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Medical Care Services to ICF/MR Facility Residents

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule providing for the reimbursement of extraordinary medical care services for Title XIX long term care ICF/MR patients under the Medicaid Program. This emergency rule was adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) effective January 1, 1993. A notice of intent was published in the February 20, 1993 issue of the *Louisiana Register*.

Currently in the Medicaid Program, reimbursement for ICF/MR facility services for persons with extraordinary medical care needs is available through state funding only. These services which are covered by Title XIX and required in the patients' plans of care have always been reimbursed with state funds. Therefore, these costs have always been excluded in determining the ICF/MR Medicaid rates because of the state funding. In order to meet the needs of this patient group, Medicaid of Louisiana is adopting a mechanism to fund these type costs with both federal and state dollars.

EMERGENCY RULE

Effective May 1, 1993, the Bureau of Health Services Financing hereby implements a reimbursement for extraordinary care services provided to mentally retarded persons in ICF/MR facilities under the Medicaid Program. Calculation of an individual prospective flat rate

amount for each extraordinary medical care beneficiary shall be determined based on actual costs of providing these services for each individual. Costs for extraordinary care shall be segregated from other long term care costs by means of a separate cost report. No duplication of cost shall be allowed and allowable cost shall be in accordance with Medicare principles of determining allowable cost found in the Provider Reimbursement Manual (HIM-15).

Medicaid reimbursement of the extraordinary medical care cost shall be made only under the following condition:

The department has reviewed and approved each patient's plan of care and determined that the extraordinary medical services included are based upon medical necessity and are not provided in the current per diem rate.

Disapproval of this change by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule. A public hearing was held on this matter Monday, March 29, 1993. Copies of this emergency rule and all other Medicaid rules and regulations are available at Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Special Low-Income Beneficiaries

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1).

In accordance with §4501(b) of the Omnibus Reconciliation Act of 1990, state Medicaid Programs are required to pay the Medicare Part B premiums of Specified Low-Income Medicare Beneficiaries (SLMBs). States were mandated to begin these payments effective January 1, 1993. This group is related to the Qualified Medicare Beneficiary group, but specific federal regulations regarding countable resources and income govern their eligibility. In order to comply with the Public Law and to avoid federal sanctions or penalties, the bureau adopted this emergency rule establishing the eligibility of Specified Low-Income Medicare Beneficiaries for this benefit under Medicaid of Louisiana effective January 1, 1993. This emergency rule is being redeclared in order to continue this provision in the Medicaid Program in accordance with federal mandates.

EMERGENCY RULE

Effective May 1, 1993 the Bureau of Health Services Financing hereby pays the Medicare Part B premiums for the Specified Low-Income Medicare Beneficiaries under Medicaid of Louisiana. Eligibility for this benefit include the following criteria. Prospective eligibles must be enrolled or conditionally enrolled in Part A of Medicare. In addition, their incomes must be between the allowed limit for the Qualified Medicare Beneficiaries and the maximum limit for the Specified Low-Income Medicare Beneficiaries. Their resources must not exceed two times the Supplemental Security Income resource limit and they must meet all other non-financial eligibility requirements for Medicaid of Louisiana.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this emergency rule. A public hearing was held on this matter on Monday, March 29, 1993 at 9:30 a.m. in the auditorium at 1201 Capital Access Road, Baton Rouge, LA. Copies of this emergency rule and all other Medicaid regulations are available for review at Parish Medicaid Offices.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Labor Office of Workers' Compensation

Reimbursement Schedule, Dental Care Services (LAC 40:I.Chapter 53)

In accordance with the emergency provision of R.S. 49:953(B) of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1034.2 of Act 938 of 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the director of the Office of Workers' Compensation has determined that because of the imminent peril to the public health, safety and welfare, it is necessary that the Office of Workers' Compensation adopt immediate dental care reimbursement schedules.

The purpose of the reimbursement schedule as part of the medical reimbursement schedule is to coordinate and administer medical services to injured workers. The medical reimbursement schedules are applicable to any person or cooperation who renders such care, services or treatment or provides such drugs or supplies to all employees covered by Chapter 10 of Title 23 of the Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a

medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

The medical reimbursement schedules establish a basis for billing and payment of medical services provided to all injured employees.

These rules are in effect with dates of service beginning April 20, 1993.

Title 40

Labor and Employment

Part I. Workers' Compensation Administration Chapter 53. Dental Care Services, Reimbursement Schedule Billing Instruction and Maintenance Procedures

§5301. Statement of Policy

A. It is the intent of this reimbursement schedule to limit to the mean of the usual and customary charge all fees for medical services, supplies, and other non-medical services delivered to workers' compensation claimants, as authorized by law.

B. The law provides that an employer or compensation insurer owes to an injured worker 100 percent of the medical fees incurred in the treatment of work-related injuries or occupational diseases (hereinafter referred to as "illness(es)").

1. It is therefore the policy of the Office of Workers' Compensation that medical bills for services should be sent to the carrier/self-insured employer for payment. Fees for covered services in excess of the amounts allowable under the terms of this schedule are not recoverable from the employer, insurer, or employee.

2. It is also deemed to be in the best interest of all of the parties in the system that fees for services reasonably performed and billed in accordance with the reimbursement schedule should be promptly paid. Not paying or formally contesting such bills by filing LDOL/WC 1008 (Disputed Claim for Compensation), with the Office of Workers' Compensation within 30 days of the date of receipt of the bill may subject the carrier/self-insured employer to penalties and attorneys' fees. Additionally, frivolous contesting of the bill may subject the carrier/self-insured employer to penalties and attorneys fees.

3. If claimant is receiving treatment for both compensable and noncompensable medical conditions, only those services provided in treatment of compensable conditions should be listed on invoices submitted to the carrier/self-insured employer unless the non-compensable condition (e.g., hypertension, diabetes) has a direct bearing on the treatment of the compensable condition. In addition, payments from private payers for noncompensable conditions should not be listed on invoices submitted to the carrier/self-insured employer. If a provider reasonably doesn't know the workers' compensation status, or the workers' compensation insurer has denied coverage, the provider won't be penalized for not complying with this rule. Upon notification or knowledge of workers' compensation eligibility, the provider will comply with these regulations prospectively.

4. Statements of charges shall be made in accordance with standard coding methodology as established by these rules, ICD-9-CM, HCPCS, CPT-4 and CDT-1 coding

manuals. Unbundling or fragmenting charges, duplicating or over-itemizing coding, or engaging in any other practice for the purpose of inflating bills for reimbursement is strictly prohibited. Services must be coded and charged in the manner guaranteeing the lowest charge applicable. Knowingly and willfully misrepresenting services provided to workers' compensation claimants is strictly prohibited.

5. Providers should take reasonable steps to ensure that only those services provided are billed to the carrier/self insured employer.

Violation of this provision may subject provider/practitioner to mandatory audit of all charges.

6. Bills for a particular charge item may not be included in subsequent billings without clear indication that they have been previously billed.

7. These rules are to be used in conjunction with Chapter 27, Rules on Utilization Review Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers Compensation, LR 19:

§5303. Introduction

A. This document is primarily intended to facilitate the establishment of the maximum allowable reimbursement for dental care services rendered for compensable work-related illnesses or injuries.

B. For an overview of the Workers' Compensation program and policies covering treatment of compensable work-related injuries or illnesses, please refer to the carrier/self-insured employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5305. Verification of Coverage

A. The carrier/self-insured employer is responsible for 100 percent of the maximum allowable reimbursement rate for covered services rendered for treatment of compensable conditions. The claimant is not required to contribute a copayment and does not have to meet any deductibles.

1. Prior to the provision of medical services, supplies, or other non-medical services the determination that the illness, injury, or condition, is work related must be made, and must be accomplished in the following manner.

a. Carrier/self-insured employer should be contacted for verification of coverage/liability.

b. The name and title of the individual verifying coverage/liability must be recorded in the claimant's records.

c. Denial of coverage/liability must be immediately communicated to the claimant.

2. Those procedures identified in this reimbursement schedule as noncovered are not billable to the claimant if rendered in treatment of compensable conditions unless the claimant is informed beforehand that he will be responsible for the charges.

3. In certain circumstances, the provider collects his fees from the claimant because he is unsure or unaware of the occupational nature of the injury or condition. If the provider decides to bill the workers' compensation carrier/self-insured

employer after compensability has been established, he must, to the best of his knowledge, make certain that the claimant has not already filed for reimbursement. If the claimant has not filed, the provider should bill the carrier/self-insured employer and reimburse the claimant. To avoid duplicate billings, the provider should file for the claimant, billing the full amount; or, the claimant should bill the full amount himself.

B. For covered services, if there is a difference between the provider's billed amount and the Louisiana Office of Workers' Compensation maximum allowable reimbursement, the claimant, employer, or carrier *cannot*, under any circumstances, be billed for the difference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5307. Other Payer Liabilities

A. Whenever a claimant is eligible for Medicare or payment from another third party payer and is also eligible for workers' compensation medical benefits, the carrier/self-insured employer is always the primary payer, the payer of *first* resort. Services related to compensable conditions should be billed to the carrier/self-insured employer *before* attempting to collect from the third party payer.

B. If a claimant is receiving treatment for both compensable and noncompensable medical conditions, *only* those services provided in treatment of compensable conditions should be listed on claims and invoices submitted to the carrier/self-insured employer. In addition, payments from private payers for noncompensable conditions should *not* be listed on invoices submitted to the carrier/self-insured employer.

C. Charges for non-compensable conditions are collectible by the provider from any other third party payer, subject to the limitations and exclusions contained in the third payers policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5309. Prior Authorization

A. All dental care services and items *must* have prior written authorization of the carrier/self-insured employer before reimbursement will be made. Claimant should be notified of this requirement upon initiation of the claim.

B. Prior authorization requests will be approved, denied, or amended and approved by the carrier/self-insured employer. Occasionally, some requests may be returned for further information, explanation or reports. Once a request is approved, please take great care to bill *only* for those procedure codes specifically authorized by the carrier/self-insured employer. In addition, please attach the authorization letter to the invoice or enter the prior authorization number in the appropriate field on the invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5311. Charges Paid by Claimants

When possible, prior approval of non-emergency expenditures by claimant is required. Occasionally a claimant may pay for an item or service which should have been paid by the carrier/self-insured employer. Nonetheless, the claimant is still limited by the same rules regulating delivery of services and authorization procedures that would apply if the insurer were making direct payment. When the carrier/self-insured employer is presented with a bill paid by the claimant the carrier/self-insured employer should do all of the following things:

1. advise the claimant in writing that unless a valid emergency exists, that prior approval of all expenditures is required, and give the claimant a disclaimer of carrier/self-insured employer liability for all future non-emergency expenditures where prior approval is not obtained;

2. reimburse the claimant for out-of-pocket expenses incurred for the item or service involved, if reasonable and necessarily incurred; and

3. compare the cost of the item/service with the maximum allowable reimbursement and if the cost is in excess of the maximum allowable reimbursement the carrier/self-insured employer should:

- a. attempt to recover any overage from the provider/vendor;

- b. notify the provider/vendor that service/items for this patient for treatment for the work-related condition must have

prior approval from the carrier/self-insured employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5313. Billing Instructions

- A. The American Dental Association (ADA) Claim Form is to be used for billing services provided to workers' compensation employer claimants. Do not use any other form.

- B. Partial bills should not be filed by the provider or the claimant. An invoice for the full amount must be filed by one of the two parties. If the claimant pays for medical or other services which are determined to be compensable expenses, it is his responsibility to file the ADA dental claim form, with the workers' compensation carrier/self-insured employer to receive reimbursement.

- C. This is not the case if the provider agrees to file for the claimant; the carrier will pay directly to the provider and the provider must refund any partial payments made by the claimant directly to the claimant.

- D. Please read the instructions carefully before completing the form. Failure to provide the information requested in a readable form will result in delay of payment.

- E. A sample ADA dental claim form and detailed instructions for the proper completion of the form follows.

- Dentist's pre-treatment estimate
- Dentist's statement of actual services

PATIENT INFORMATION

1 Patient name First m.i. last	2 Relationship to employee <input type="checkbox"/> self <input type="checkbox"/> child <input type="checkbox"/> spouse <input type="checkbox"/> other	3 Sex m f	4 Patient birthdate MM DD YYYY	5 If full time student school city
6 Employee/subscriber name and mailing address	7 Employee/subscriber soc. sec. or I.D. number	8 Employee/subscriber birthdate MM DD YYYY	9 Employer (company) name and address	10 Group number
11 Is patient covered by another dental plan? yes no If yes, complete 12 a. Is patient covered by a medical plan? yes no	12-a Name and address of carrier(s)	12-b Group no. (s)	13 Name and address of other employer(s)	
14-a Employee/subscriber name (if different than patient's)	14-b Employee/subscriber soc. sec. or I.D. number	14-c Employee/subscriber birthdate MM DD YYYY	15 Relationship to patient <input type="checkbox"/> self <input type="checkbox"/> parent <input type="checkbox"/> spouse <input type="checkbox"/> other	

I have reviewed the following treatment plan. I authorize release of any information relating to this claim. I understand that I am responsible for all costs of dental treatment.

I hereby authorize payment of the dental benefits otherwise payable to me directly to the below named dental entity.

Signed (Patient, or parent if minor) _____ Date _____

Signed (Insured person) _____ Date _____

16 Name of Billing Dentist or Dental Entity	24 Is treatment result of occupational illness or injury?	No	Yes	If yes, enter brief description and date
17 Address where payment should be remitted	25 Is treatment result of auto accident?			
City, State, Zip	26 Other accident?			
18 Dentist Soc. Sec. or T.I.N.	19 Dentist license no.	20 Dentist phone no.	27 If prosthesis, is this initial placement?	(If no, reason for replacement)
21 First visit date current series	22 Place of treatment Office Hosp ECF Other	23 Radiographs or models enclosed? No Yes How many?	29 Is treatment for orthodontics?	If services already commenced enter: Date appliances placed Mos. treatment remaining

Identify missing teeth with "x"	30 Examination and treatment plan — List in order from tooth no. 1 through tooth no. 32 — Use charting system shown					For administrative use only
	Tooth # or letter	Surface	Description of service (including x-rays, prophylaxis, materials used, etc.)	Date service performed Mo Day Year	Procedure number	Fee
31 Remarks for unusual services						

I hereby certify that the procedures as indicated by date have been completed and that the fees submitted are the actual fees I have charged and intend to collect for those procedures.

Signed (Treating Dentist) _____ License Number _____ Date _____

Total Fee Charged	
Max. Allowable	
Deductible	
Carrier %	
Carrier pays	
Patient pays	

F. Item-by-Item Instructions for Completion of the ADA Dental Claim Form.

This Section is intended to serve as an instructional guide for completing the ADA dental insurance claim form. All applicable information should be completed in full.

DENTIST'S PRETREATMENT ESTIMATE, OR STATEMENT OF ACTUAL SERVICES: Check the appropriate box to indicate if the form is being used for an estimate and authorization, or if the form represents a statement of actual services.

CARRIER NAME AND ADDRESS: Enter the name and address of the carrier where the claim is to be sent.

ITEM 1 Patient's name — enter the patient's first name, middle initial and last name.

ITEM 2 Relationship to employee — "self" is the claimant. (workers' compensation claims should always show "self"). Put an "X" in the appropriate box.

ITEM 3 Sex — put an "X" in the appropriate box; male or female.

ITEM 4 Patient birthdate — enter the patient's date of birth, month, day and year.

ITEM 5 If full-time student — leave blank

ITEM 6 Employee/subscriber name and address — same as patient's name and address.

ITEM 7 Employee/subscriber social security or I.D. number — if the patient has other insurance, show the insured's policy number.

ITEM 8 Employee/subscriber birthday — same as patient's birthday.

ITEM 9 Employer (company name and address) — enter the employer's (company's) name and address.

ITEM 10 Group number — if the patient has other insurance, show the insured's group number.

ITEM 11 Is patient covered by another dental plan?— leave blank

ITEM 12 Name and address of carrier — leave blank

ITEM 12b Group number - leave blank

ITEM 13 Name and address of other employer(s) — leave blank

ITEM 14a Employee/subscriber name (if different than patient's) — leave blank

ITEM 14b Employee/subscriber Social Security or I.D. Number — leave blank

ITEM 14c Employee/subscriber birthdate — leave blank

ITEM 15 Relationship to patient — leave blank

Patient Signature — have the patient or his authorized representative sign and date this block unless the signature is on file. If the patient's representative signs, the relationship to the patient must be indicated. The patient's signature authorizes release of medical information necessary to process the claim. It also authorizes payment of benefits to the physician or supplier.

Signature by mark, where an illiterate or physically handicapped person signs by mark (X), a witness must enter his/her name and address next to the mark.

Insured Person's Signature Block. The signature in this

block authorizes payment to the physician or supplier.

ITEM 16 Name of billing dentist or entity — enter the individual dentist's name or the name of the group/practice corporation responsible for the billing. This may differ from the actual treating dentist's name. This is the name that should appear on any payments or correspondence that will be remitted to the billing dentist.

ITEM 17 Address where payment should be remitted - enter the address of the billing dentist or entity in Item 16.

ITEM 18 Dentist's Social Security Number or T.I.N. - show your physician/supplier federal tax I.D. (Employer Identification Number) or social security number.

ITEM 19 Dentist's license number - enter the license number of the billing dentist. This may differ from that of the treating dentist, which appears in the dentist's signature block at the bottom of the form.

ITEM 20 Dentist's phone number - enter the dentist's area code and phone number.

ITEM 21 First visit date current series - enter the date of the first visit in the current series of treatment.

ITEM 22 Place of treatment - enter the appropriate place of service code from the list provided.

Place of Service Codes and Definitions
CODES DEFINITIONS

00-10 Unassigned

11 *Office* — location, other than a hospital, skilled nursing facility (SNF), military treatment facility. Community health facility, state or local public health clinics or intermediate care facility (ICF), where the health professional routinely provides health examinations, diagnosis and treatment of illness or injury on an ambulatory basis.

12 *Patient's Home* — location, other than a hospital or other facility, where the patient receives care in a private residence.

13-20 Unassigned

21 *Inpatient Hospital* — a facility, other than psychiatric, which primarily provides diagnostic therapeutic (both surgical and nonsurgical) and rehabilitation services, or under the supervision of physicians to patients admitted for a variety of medical conditions.

22 *Outpatient Hospital* — a portion of a hospital which provides diagnostic, therapeutic (both surgical or nonsurgical) and rehabilitation services to sick or injured persons who do not require hospitalization or institutionalization.

23 *Emergency Room - Hospital* — a portion of a hospital where emergency diagnosis and treatment of illness or injury is provided.

24 *Ambulatory Surgical Center* — a freestanding facility, other than a physician's office, where

- surgical and diagnostic services are provided on an ambulatory basis.
- 25 *Birth Center* — a facility, other than a hospital's maternity facility or a physician's office, which provides a setting for labor, delivery and immediate post-partum care as well as immediate care of newborn infants.
- 26 *Military Treatment Facility* — a medical facility operated by one or more of the uniformed services. Military treatment facility (MTF) also refers to certain former U.S. Public Health Services (USPHS) facilities now designated as uniformed service treatment facilities (USTF).
- 27-30 Unassigned
- 31 *Skilled Nursing Facility* — a facility which primarily provides inpatient skilled nursing care and related services to patients who require medical, nursing or rehabilitative services but does not provide the level of care or treatment available in a hospital.
- 32 *Nursing Facility* — a facility which primarily provides to residents skilled nursing care and related services for the rehabilitation of injured, disabled or sick persons, or, on a regular basis, health related care services above the level of custodial care to other than mentally retarded individuals.
- 33 *Custodial Care Facility* — a facility which provides room, board and other personal assistance services, generally on a long-term basis, and which does not include a medical component.
- 34 *Hospice* — a facility, other than a patient's home, in which palliative and supportive care for terminally ill patients and their families are provided.
- 35-40 Unassigned
- 41 *Ambulance-Land* — a land vehicle specifically designed, equipped and staffed for lifesaving and transporting the sick or injured.
- 42 *Ambulance Air or Water* — an air or water vehicle specifically designed, equipped and staffed for lifesaving and transporting the sick or injured.
- 43-50 Unassigned
- 51 *Inpatient Psychiatric Facility* — a facility that provides inpatient psychiatric services for the diagnosis and treatment of mental illness on a 24-hour basis, by or under the supervision of a physician.
- 52 *Psychiatric Facility Partial Hospitalization* — a facility for the diagnosis and treatment of mental illness that provides a planned therapeutic program for patients who do not require full-time hospitalization, but who need broader programs than are possible from outpatient visits in a hospital-based or hospital-affiliated facility.
- 53 *Community Mental Health Center* — a facility that provides comprehensive mental health services on an ambulatory basis primarily to individuals residing or employed in a defined area.
- 54 *Intermediate Care Facility/Mentally Retarded* — a facility which primarily provides health-related care and services above the level of custodial care to mentally retarded individuals but does not provide the level of care or treatment available in a hospital or SNF.
- 55 *Residential Substance Abuse Treatment Facility* — a facility which provides treatment for substance (alcohol and drug) abuse to live-in residents who do not require acute medical care. Services include individual and group therapy and counseling, laboratory tests, drugs and supplies, psychological testing, and room and board.
- 56 *Psychiatric Residential Treatment Center* —
- 57-60 Unassigned
- 61 *Comprehensive Inpatient Rehabilitation Facility* — A facility that provides comprehensive rehabilitation services under the supervision of a physician to inpatients with physical disabilities. Services include physical therapy, occupational therapy, speech pathology, social or psychological services, and orthotics and prosthetics services.
- 62 *Comprehensive Outpatient Rehabilitation Facility* — a facility that provides comprehensive rehabilitation services under the supervision of a physician to outpatients with physical disabilities. Services include physical therapy, occupational therapy, and speech pathology services.
- 63-64 Unassigned
- 65 *End Stage Renal Disease Treatment Facility* — a facility other than a hospital, which provides dialysis treatment, maintenance and/or training to patients or care givers on an ambulatory or home-care basis.
- 66-70 Unassigned
- 71 *State or Local Public Health Clinic* — a facility maintained by either state or local health departments that provides ambulatory primary medical care under the general direction of a physician.
- 72 *Rural Health Clinic* — a certified facility which is located in a rural medically underserved area that provides ambulatory primary medical care under the general direction of a physician.
- 73-80 Unassigned
- 81 *Independent Laboratory* — a laboratory certified to perform diagnostic and/or clinical tests independent of an institution or a physician's office.
- 82-98 Unassigned
- 99 *Other Unlisted Facility* — other service facilities not identified above.
- ITEM 23 Radiographs or models enclosed — indicate whether diagnostic materials were submitted.

- ITEM 24 Is treatment result of occupational illness or injury? — check yes or no to indicate whether employment related.
- ITEM 25 Is treatment result of auto accident? — check yes or no to indicate whether injury is related to auto accident.
- ITEM 26 Other accident — check yes or no to indicate accident other than employment or auto related.
- ITEM 27 If prosthesis, is this the initial placement? — check yes or no.
- ITEM 28 Date of prior placement? — enter the date of prior placement if applicable.
- ITEM 29 Is treatment for orthodontics? — Check appropriate box.
- ITEM 30 Examination and treatment plan — enter the examination and/or plan of treatment. List in order from tooth #1 through tooth #32 using the charting system shown.
- ITEM 31 Remarks for unusual services — enter any information which may be helpful in determining the most appropriate benefit for the treatment. If space is inadequate, utilize unused portion of #30, or attach a separate sheet.

Dentist's Signature Block. Must include treating dentist's signature and license number.

Payment Itemization. The spaces under "Total Fee Charged" will be completed by the carrier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5315. Coding System

A. Resources

1. CDT-1 Manual - Council on Dental Care Programs
American Dental Association
211 East Chicago Avenue,
Chicago, Illinois 60611 (312) 440-2500
2. CPT Manual - AMA Order Dept. P.O. Box 10946
Chicago, Illinois 60610 (800) 621-8335
3. ADA Dental Claim Form - Council on Dental Care Programs
American Dental Association, 211
East Chicago Avenue, Chicago,
Illinois 60611. (312) 440-2500
4. HCPCS Manual MAP
671 Executive Drive, Willowbrook,
Illinois 60521. (800)624-6994
5. Relative Values For Dentists Relative Value Studies, Inc.
P.O. Box 6431, Denver, Colorado
80206. (303) 329-9787

B. CDT-1 Coding

1. For convenience, the current *Dental Terminology*, First Edition (CDT-1) procedure codes are divided into 12 categories of service. Additional coding systems such as ICD-9, CPT and HCPCS may also be used in the dental office.

2. Additional dental service codes from *Relative Values for Dentists** have been included where it was felt that more descriptive coding would be beneficial.

* Relative Value Studies, Inc. (RVSI) began as a collection

of intellectuals in 1980. The group researched and collected data to produce a relative value scale designed for national use. A criteria based system founded on survey consensus was developed. *Relative Values for Physicians*, first published by McGraw Hill in 1984, is recognized nationally as the leading relative value study in private medical care.

RVSI began similar extensive research in 1985 to establish relative values for dentistry. In 1990 *Relative Values for Dentists* was published by Relative Value Studies, Inc.

Based on subsequent studies, RVSI has recently released *Passport to E/M Coding* and *Relative Values for Chiropractors*

3. Procedures denoted "BR" (by report) in the fee schedule should be justified by the submission of a report.

4. All fees should include the price of materials supplied and the performance of the service. Under some circumstances; however, fee adjustments are necessary and values of listed codes may be modified by use of the appropriate "modifier code number" Modifiers available:

-22 Unusual Services — report required

-50 Bilateral or Multiple Field Procedures — multiple procedures in separate anatomical field. The following values may be used:

100% first major procedure;

70% each additional field procedure.

-51 Multiple Procedures — multiple procedure in the same anatomical field. The following values may be used:

Single field

100% for first major procedure

50% of listed value for second

25% of listed value for third

10% of listed value for fourth

5% of listed value for fifth

BR for any procedure beyond 5.

-52 Reduced Values — reduced or estimated value for a procedure because of common practice or at the dentist's election.

-53 Primary Emergency Services — procedure is carried out by a dentist who will not be providing the follow-up care. The value may be 70 percent of the listed value.

-54 Surgical Procedure Only - used to identify the dentist performing the surgery. The value may be 70 percent of the listed value.

-55 Follow-up Care Only - identifies the dentist providing follow-up care. The value may be 30 percent of the listed value.

-56 Pre-Operative Care Only - identifies the dentist performing care up until surgery when another dentist takes over. Value may be 30 percent of the listed value.

-75 Services Rendered by More than One Dentist — when the condition requires more than one dentist, each dentist may be allowed 80 percent of the value for that procedure.

-99 Multiple Modifiers — By Report

The use of modifiers does not imply or guarantee that a provider will receive reimbursement as billed. Reimbursement

for modified services or procedures must be based on documentation of medical necessity and must be determined on a case-by-case basis.

5. Fees for surgical procedures should be global in nature and include the surgery, any local anesthesia and normal follow-up care. Fees for general anesthesia are extra as are complications or additional services and should be coded separately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5317. Covered Services

Only dental services necessitated by an occupational injury or illness are covered. Such services are provided as a result of damage to the teeth and/or dental work due to a work injury or exposure. In addition, dental appliances and prosthetics not originally purchased by the carrier/self-insured employer will be replaced if damaged or broken in a work-related accident in accordance with the provisions of R.S. 23:1203.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5319. Procedure Codes and Guidelines

A. The Current Dental Terminology (CDT) is a listing of descriptive terms and identifying codes for reporting dental services and procedures and are used for processing claims benefits. CDT was developed to provide a standard and effective system of reporting Dental services to third party payers for reimbursement. Each procedure or service is identified with a five digit code. By using these procedures, dental office staff can enhance the speed and accuracy with which a claim may be paid. You should always include the appropriate CDT code(s) when filing a claim.

B. Because medical nomenclature and procedural coding is a rapidly changing field, certain codes may be added, modified or deleted for the next year. Please ensure that your office is using the most current edition of CDT and that you update your codes annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5321. Maximum Allowable Reimbursement

Maximum Allowable Reimbursement lists the maximum payment allowed for dental items described by appropriate codes. Payment will be the least of:

1. the provider's usual and customary fee, or
2. a pre-negotiated amount between the provider and carrier/self-insured employer, or
3. the amount indicated in the maximum allowable reimbursement schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5323. Deposition/Witness Fee Limitation

Any health care provider who gives deposition shall be

allowed a witness fee. Procedure code 99075 must be used to bill for a deposition. Reimbursement for a deposition should be a specific amount mutually agreed upon and in writing, in advance of the event. Fees may be at an hourly rate or a flat rate. Disputes over these fees will be resolved in the same manner and subject to the same procedures as established for dispute resolution of claims for workers' compensation benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5325. Missed Appointments

The provider shall not receive payment for a missed appointment unless the appointment was arranged by the carrier or the employer. If the carrier or the employer fails to cancel the appointment not less than 72 hours prior to the time of the appointment and the provider is unable to arrange for a substitute appointment for that time, the provider may bill the carrier for the missed appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5327. Copies of Records and Reports

A. Health care providers must submit copies of records and reports to carriers, employers, claimants or their attorney and the Office of Workers' Compensation Administration upon request.

B. Health care providers are entitled to recover a reasonable amount, not to exceed \$1 per page, to cover the cost of copying documents which have been requested by the carrier.

1. Certain procedure code descriptors require the submission of records and/or reports with the claim form. There is no reimbursement of copy charges to the provider for these required records and reports.

2. Documentation which is submitted by the provider, but was not specifically requested by the carrier/self-insured employer, is not allowed a copy charge.

C. Health care providers must furnish an injured employee copies of his records and reports at the same time as copies are being furnished to the employer or carrier, at no expense to the employee. If additional copies are requested by claimant or his attorney, the copy charge to the employee or his attorney may not exceed \$.50 per page.

D. Health care providers may charge the actual direct cost of copying x-rays, microfilm or other non-paper records.

E. The OWCA may charge the actual cost of reproducing records which is established at \$0.25 per page and must be paid in advance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5329. Special Instructions

A. Procedure Codes not Listed in Rules

1. If a procedure is performed which is not listed in the maximum fee allowance, the health care provider must use an

appropriate CDT code descriptor. They submit a narrative report to the carrier to explain why it was medically necessary to use a particular procedure code or descriptor not contained in the maximum fee allowance.

2. The CDT contains codes for unlisted procedures which end in "99." These codes should only be used when there is no procedure code which accurately describes the service rendered. A special report is required as these services are reimbursed by report.

3. Services must be coded with valid five digit procedure codes.

B. By Report (BR)

1. BR refers to the method by which the reimbursement for a procedure is determined by the carrier when a service or procedure is performed by the provider that does not have an established maximum fee allowance.

2. Reimbursement for procedure codes listed as BR must be determined by the carrier based on documentation which is submitted to the carrier by the provider in a special report attached to the claim form. Information in this report must include, as appropriate:

- a. the pertinent history and physical findings;
- b. diagnostic tests and interpretations;
- c. therapeutic procedures;
- d. treatment for concurrent medical conditions;
- e. the final diagnosis/diagnoses;
- f. identification of, or an estimate of the time required

for follow-up care;

g. summary of treatment plan;

h. copies of operative reports, consultation reports, progress notes, office notes or other applicable documentation.

i. description of equipment necessary to provide the service.

3. Reimbursement by the carrier of BR procedures should be based upon the carrier's review of the submitted documentation, the recommendation from the carrier's medical consultant, and the carrier's review of the prevailing charges for similar services as identified by the carrier based on data which is representative of Louisiana charges.

4. Bundled Codes. These codes are marked BR, and are not payable if the service is included in the payment for other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5331. Carrier Responsibilities for Reimbursement Determinations

A. Medical Consultant. Carriers must utilize the expertise of physicians or other health care professionals in making determinations pertaining to acceptable, safe medical care and treatment and appropriate reimbursement for services rendered. The consultants should have expertise in the areas for which medical or other treatment determinations are being made.

B. Carriers must not change, alter, delete or obscure procedure codes.

1. When a carrier questions a procedure code reported by a provider, the carrier must contact the provider for

clarification prior to reimbursing a claim. This may result in the carrier requesting additional documentation or a copy of the office or progress notes to substantiate the service in question from the provider.

2. If, after contracting the provider, a carrier determines that available provider documentation does not support the level of service billed, the carrier may reimburse the provider at the appropriate level but must ensure that an explanation of medical benefits specifically denotes the action taken and explains the reimbursement made for the service in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5333. Explanation of Medical Benefits (EOMB)

A. Carriers must provide an explanation of medical benefits (EOMB) to health care providers whenever the carrier's reimbursement differs from the amount billed by the provider. The EOMB must be provided with the reimbursement check.

1. A carrier must use the listed EOMB codes and descriptors to explain why a provider's charge has been reduced or disallowed.

2. A carrier may develop additional EOMB codes, if necessary, to explain the adjustment of a claim, but must furnish to the provider a written explanation of each EOMB code used.

3. The EOMB must contain appropriate identifying information so the provider can relate a specific reimbursement to the applicable claimant, the procedure billed and the date of service.

B. Acceptable EOMBs may include:

1. Copies of the bill on which reimbursements and EOMB codes are listed.

2. Manually-produced or computerized forms which contain the EOMB codes, written explanations and the appropriate identifying information.

C. The following EOMB codes must be used by the carrier to explain to the provider why a procedure or service is not reimbursed as billed:

- 001 These services are not reimbursable under the Workers' Compensation Program
- 002 Charges exceed maximum allowance
- 003 Charge is included in the basic surgical allowance
- 004 Surgical assistant is not routinely allowed for this procedure. Documentation of medical necessity is required.
- 005 This procedure is included in the basic allowance of another procedure
- 006 This procedure is not appropriate for the diagnosis
- 007 This procedure is not within the scope of the license of the billing provider
- 008 Equipment or services are not prescribed by a physician
- 009 Exceeds reimbursement limitations
- 010 This service is not reimbursable unless billed by a physician
- 011 Incorrect billing form

- 012 Incorrect or incomplete license number of billing provider
- 013 Medical report required for payment
- 014 Documentation does not justify level of service billed
- 015 Place of service is inconsistent with procedure billed
- 016 Invalid procedure code

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5335. Reconsideration of Disputed Reimbursement

A. When, after examination of the EOMB, a health care provider is dissatisfied with a carrier's payment of a bill for medical services, a reconsideration may be requested by the provider.

1. A provider must make a written request for reconsideration within 60 days from receipt of the EOMB, accompanied by a copy of the bill in question, the carrier's EOMB and any supporting documentation to substantiate the medical necessity of the service and the diagnosis provided.

2. The carrier must process a reconsideration within 60 days of receipt.

a. The carrier must review and re-evaluate the original bill and accompanying documentation using its own medical consultant if necessary.

b. The carrier must notify the provider within 60 days of the results of the reconsideration, explain the reason(s) for their decision and cite the specific policy upon which their final adjustment was made.

B. The provider may request the Office of Workers' Compensation Administration, Medical Services Section, to resolve the dispute if the result of the carrier's reconsideration remains unsatisfactory.

C. The Office of Workers' Compensation Administration's Medical Services Section will resolve disputes between a provider and carrier which involve the interpretation of the reimbursement policies and allowable reimbursement contained in the applicable reimbursement manual.

1. A written request for the resolution of a disputed reimbursement claim must be submitted to the Office of Workers' Compensation Administration within 60 days of the carrier's reconsideration or 90 days from the provider's requested date when no response is received.

2. Valid request for reconsideration must include copies of the following:

- a. copies of the original and resubmitted bills;
- b. EOMB's including the specific reimbursement;
- c. supporting documentation and correspondence;
- d. specific information regarding contact with the carrier.

3. The dispute will be reviewed by the Office of Workers' Compensation Administration, Medical Services Section, and both parties, the provider and the carrier, will be notified of the decision within 60 days after receipt of a valid request.

4. Request for resolving disputes may be sent to: Office of Workers' Compensation, Medical Services Section, Attn:

Medical Services Manager, Post Office Box 94040, Baton Rouge, LA 70804-9040.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5337. Out-of-State, On-the-Job Injuries or Work-Related Illness Treated in Louisiana

A. A patient may receive medical services in Louisiana for injuries incurred in an out-of-state accident.

1. If the patient is receiving treatment under the Workers' Compensation Law of another state, this manual would not apply.

2. If the patient is receiving care and treatment in Louisiana pursuant to the Louisiana Act, the reimbursement is subject to the requirements and amount of this manual regardless of the site of injury.

B. Providers may contact carriers to determine whether or not claimant benefits are provided pursuant to Louisiana law or the law of another state.

AUTHORITY NOTE: Promulgated in accordance with R. S. 23:1203 and R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5339. In-State Medical Treatment

A. Each employer shall furnish all necessary drugs, supplies, hospital care and services, medical and surgical treatment, and any non-medical treatment recognized by the laws of this state as legal. All such care, services, and treatment shall be performed at facilities within the state when available.

B. When billing for out-of-state services, supporting documentation is necessary to show that the service being provided cannot be performed within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203 and R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

§5341. Annual Maintenance

A. To ensure that the maximum allowable reimbursement schedule is as fair as possible, the Office of Workers' Compensation will conduct an annual survey to evaluate the reimbursement schedule.

1. This will be accomplished by having the Carriers/Self-insured Employers submit the following information for claims incurred in the preceding period. As an alternative, the Office of Workers' Compensation may contract with a responsible party to perform this review.

2. This information will be reviewed and any changes to the maximum allowable reimbursement rates will be published.

B. Information Required. The information required to review and establish appropriate maximum allowable reimbursement rates will include:

Information	# Positions/Type
1. CDT-1 Code	5 Alpha Numeric
2. Provider Name	30 Alpha Numeric
3. Provider Street Address	30 Alpha Numeric
4. Zip Code for Provider of Service	9 Numeric
5. Charge Amount	10 Numeric

6. Place of Treatment	2 Numeric
7. Date of Injury (yy/mm/dd)	6 Numeric
8. Claimant Name	30 Alpha
9. Claimant Social Security	9 Numeric
10. Employer Name	20 Alpha Numeric
11. Date of Receipt of Bill (yy/mm/dd)	6 Numeric
12. Date of Payment of Bill (yy/mm/dd)	6 Numeric

C. Communication Format

1. The following is the current format, however, the Office of Workers' Compensation will establish the format on an annual basis to facilitate the review.

2. Magnetic Tape

- a. Tape 9-track, 8.5" to 10.5" reels with silver mylar reflector (standard reels) with write-ring removed.
- b. Recording Density — 1600 or 6250 Bytes per inch.
- c. Recording Code — Extended Binary Coded Decimal Interchange Code (EBCDIC).
- d. Header record must identify submitter and position of each field in the record.
- e. Tape must have a leading tape mark and an end of file mark.

The external label must identify the submitter, the date submitted, the tape number with identification of the total number of tapes submitted and the descriptive narrative of the information contained within the records.

D. Diskettes

- 1. a 5.25 inch diskette (floppy disk) that is IBM PC-DOS

compatible with the following attributes:

- a. double sided
- b. double density
- c. soft sectored
- d. 9 sectors per track
- e. 40 tracks per diskette

2. a 3.5 inch, 720K diskette, that is IBM PC-DOS compatible with the following attributes:

- a. double sided
- b. double density

The external label must identify the submitter, the date submitted, the diskette number with identification of the total number of diskettes submitted and the descriptive narrative of the information contained within the records.

E. Maintenance Activities

- 1. The information submitted will be arrayed in procedure code order.
- 2. The information for each procedure code will be analyzed to determine the mean value of the charges submitted.
- 3. This revised information will be published as the update for the maximum allowable reimbursement schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:

MAXIMUM DENTAL SERVICES REIMBURSEMENT ALLOWANCE FOR
OFFICE OF WORKERS' COMPENSATION ADMINISTRATION

CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
00110	INITIAL ORAL EXAMINATION	\$37
00120	PERIODIC ORAL EXAMINATION	\$12
00130	EMERGENCY ORAL EXAMINATION	\$37
00135	<i>SCREENING EXAMINATION</i>	\$12
00140	<i>COMPREHENSIVE EXAMINATION</i>	\$50
00145	<i>POSTMORTEM EXAMINATION</i>	\$50
00199	<i>UNSPECIFIED EXAMINATION PROCEDURE</i>	BR
00210	INTRAORAL - COMPLETE SERIES (INCLUDING BITEWINGS)	\$50
00220	INTRAORAL - PERIAPICAL-FIRST FILM	\$12
00230	INTRAORAL - PERIAPICAL - EACH ADDITIONAL FILM	\$6
00240	INTRAORAL - OCCLUSAL FILM	\$15
00250	EXTRAORAL - FIRST FILM	\$25
00260	EXTRAORAL - EACH ADDITIONAL FILM	\$12
00270	BITEWING - SINGLE FILM	\$12
00272	BITEWINGS - TWO FILMS	\$15
00273	<i>BITEWINGS - THREE FILMS</i>	\$20
00274	BITEWINGS - FOUR FILMS	\$25
00275	<i>BITEWINGS - EACH ADDITIONAL FILM</i>	\$6
00290	POSTERIOR-ANTERIOR OR LATERAL SKULL AND FACIAL BONE, SURVEY FILM	\$62
00310	SIALOGRAPHY	\$50
00320	TEMPOROMANDIBULAR JOINT ARTHROGRAM, INCLUDING INJECTION	\$249
00321	OTHER TEMPOROMANDIBULAR JOINT FILMS, BY REPORT	BR
00322	TOMOGRAPHIC SURVEY	\$187
00330	PANORAMIC FILM	\$25
00340	CEPHALOMETRIC FILM	\$50
00399	<i>UNSPECIFIED RADIOGRAPHS</i>	BR
00415	BACTERIOLOGIC STUDIES FOR DETERMINATION OF PATHOLOGIC AGENTS	BR
00425	CARIES SUSCEPTIBILITY TESTS	\$44
00430	<i>BIOPSY AND EXAMINATION OF ORAL TISSUE, HARD</i>	\$80
00440	<i>BIOPSY AND EXAMINATION OF ORAL TISSUE, SOFT</i>	\$75
00441	<i>BIOPSY, EXCISION OF SKIN, SUBCUTANEOUS TISSUE, MUCOUS MEMBRANE</i>	\$87
00442	<i>BIOPSY, TONGUE (POSTERIOR 1/3)</i>	\$80
00443	<i>BIOPSY, TONGUE (ANTERIOR 2/3)</i>	\$75
00445	<i>BIOPSY, GUM</i>	\$75
00446	<i>BIOPSY, PALATE</i>	\$75
00447	<i>BIOPSY, NEEDLE, SALIVARY GLAND</i>	\$75
00448	<i>BIOPSY, INCISION, SALIVARY GLAND</i>	\$87

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OFFICE OF WORKERS' COMPENSATION ADMINISTRATION

CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
00460	PULP VITALITY TESTS	\$12
00470	DIAGNOSTIC CASTS	\$31
00471	DIAGNOSTIC PHOTOGRAPHS	\$25
00472	<i>IDENTIFICATION PHOTOGRAPHS</i>	\$12
00480	<i>DIAGNOSTIC MOUNTING, OCCLUSAL</i>	\$75
00481	<i>DIAGNOSTIC MOUNTING, AXIS LOCATION</i>	\$199
00482	<i>DIAGNOSTIC MOUNTING, PANTOGRAPH</i>	\$199
00483	<i>DIAGNOSTIC AID, NIGHTGUARD</i>	\$199
00501	HISTOPATHOLOGIC EXAMINATIONS	\$75
00502	OTHER ORAL PATHOLOGY PROCEDURES, BY REPORT	BR
00999	UNSPECIFIED DIAGNOSTIC PROCEDURE, BY REPORT	BR
01105	<i>PROPHYLAXIS - ADULTS, AGE 55 AND OLDER</i>	\$37
01110	PROPHYLAXIS - ADULT	\$37
01120	PROPHYLAXIS - CHILD	\$25
01125	<i>PROPHYLAXIS - CHILDREN AGE 0-6</i>	\$19
01199	UNSPECIFIED PROPHYLAXIS PROCEDURE	BR
01201	TOPICAL APPLICATION OF FLUORIDE (INCLUDING PROPHYLAXIS) - CHILD	\$31
01203	TOPICAL APPLICATION OF FLUORIDE (EXCLUDING PROPHYLAXIS) - CHILD	\$12
01204	TOPICAL APPLICATION OF FLUORIDE (EXCLUDING PROPHYLAXIS) - ADULT	\$12
01205	TOPICAL APPLICATION OF FLUORIDE (INCLUDING PROPHYLAXIS) - ADULT	\$50
01210	<i>TOPICAL APPLICATION OF SODIUM FLORIDE, FOUR TREATMENTS (EXCLUDING PROPHYLAXIS)</i>	\$50
01211	<i>TOPICAL APPLICATION OF SODIUM FLORIDE, FOUR TREATMENTS (INCLUDING PROPHYLAXIS)</i>	\$75
01220	<i>TOPICAL APPLICATION OF STANNOUS FLORIDE, ONE TREATMENT (EXCLUDING PROPHYLAXIS)</i>	\$25
01221	<i>TOPICAL APPLICATION OF STANNOUS FLORIDE, ONE TREATMENT (INCLUDING PROPHYLAXIS)</i>	\$62
01230	<i>TOPICAL APPLICATION OF ACID FLORIDE PHOSPHATE, ONE TREATMENT (EXCLUDING PROPHYLAXIS)</i>	\$25
01231	<i>TOPICAL APPLICATION OF ACID FLORIDE PHOSPHATE, ONE TREATMENT (INCLUDING PROPHYLAXIS)</i>	\$62
01310	NUTRITIONAL COUNSELING FOR THE CONTROL OF DENTAL DISEASE	\$30
01330	ORAL HYGIENE INSTRUCTION	\$12
01340	<i>TRAINING IN PREVENTIVE DENTAL CARE PERIODONTICS ONLY</i>	\$37
01350	<i>TOPICAL APPLICATION OF SEALANTS, PER QUADRANT</i>	\$37

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
01351	SEALANT - PER TOOTH	\$37
01360	<i>PLAQUE AND TISSUE INDICES</i>	BR
01370	<i>GROUP ORAL HEALTH COUNSELING (PER 15 MINUTES)</i>	\$19
01399	<i>UNSPECIFIED HYGIENE PROCEDURE</i>	BR
01510	SPACE MAINTAINER - FIXED - UNILATERAL	\$100
01511	SPACE MAINTAINER - FIXED - LINGUAL OR PALATAL ARCH	\$125
01512	SPACE MAINTAINER - FIXED - DISTAL SHOE	\$100
01515	SPACE MAINTAINER - FIXED - BILATERAL	\$150
01520	SPACE MAINTAINER - REMOVABLE - UNILATERAL	\$125
01525	SPACE MAINTAINER - REMOVABLE - BILATERAL	\$174
01550	RECEMENTATION OF SPACE MAINTAINER	\$15
01555	REMOVABLE ACRYLIC	\$100
01560	ADDITIONAL CLASPS, ACTIVATING WIRES	BR
01599	<i>UNSPECIFIED TYPE OF SPACE MANAGEMENT</i>	BR
02110	AMALGAM RESTORATIONS - ONE SURFACE, PRIMARY	\$25
02120	AMALGAM RESTORATIONS - TWO SURFACES, PRIMARY	\$37
02130	AMALGAM RESTORATIONS - THREE SURFACES, PRIMARY	\$50
02131	AMALGAM RESTORATIONS - FOUR OR MORE SURFACES, PRIMARY	\$56
02140	AMALGAM RESTORATIONS - ONE SURFACE, PERMANENT	\$50
02150	AMALGAM RESTORATIONS - TWO SURFACES, PERMANENT	\$75
02160	AMALGAM RESTORATIONS - THREE SURFACES, PERMANENT	\$93
02161	AMALGAM RESTORATIONS - FOUR OR MORE SURFACES, PERMANENT	\$125
02170	AMALGAM - PIN RETENTION	\$125
02190	<i>PIN RETENTION, EXCLUSIVE OF AMALGAM</i>	\$12
02199	<i>UNSPECIFIED AMALGAM PROCEDURE</i>	BR
02210	SILICATE CEMENT - PER RESTORATION	\$50
02310	ACRYLIC OR PLASTIC	\$50
02315	ACRYLIC, PLASTIC OR COMPOSITE (PIN RETAINED)	\$100
02320	ACRYLIC OR PLASTIC, INCISAL EDGE	\$100
02330	RESIN RESTORATIONS - ONE SURFACE, ANTERIOR	\$50
02331	RESIN RESTORATIONS - TWO SURFACES, ANTERIOR	\$75
02332	RESIN RESTORATIONS - THREE SURFACES, ANTERIOR	\$87
02334	<i>PIN RETENTION, EXCLUSIVE OF COMPOSITE RESIN</i>	\$12
02335	RESIN RESTORATIONS - FOUR OR MORE SURFACES OR INVOLVING INCISAL ANGLE (ANTERIOR)	\$100
02336	COMPOSITE RESIN CROWN - ANTERIOR - PRIMARY	\$50
02337	COMPOSITE RESIN, LIGHT, TWO SURFACES	\$75
02338	COMPOSITE RESIN, LIGHT, THREE SURFACES	\$87

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
02340	ACID ETCH	\$12
02345	COMPOSITE RESIN, ANTERIOR, CLASS 3	\$87
02346	COMPOSITE RESIN, ANTERIOR, CLASS 4	\$100
02347	COMPOSITE RESIN, ANTERIOR, CLASS 5	\$112
02350	GLAZING COMPOSITE	\$25
02351	OPERATIVE SEALANT	\$25
02380	RESIN RESTORATIONS - ONE SURFACE, POSTERIOR - PRIMARY	\$25
02381	RESIN RESTORATIONS - TWO SURFACES, POSTERIOR - PRIMARY	\$37
02382	RESIN RESTORATIONS - THREE OR MORE SURFACES, POSTERIOR - PRIMARY	\$50
02385	RESIN RESTORATIONS - ONE SURFACE, POSTERIOR - PERMANENT	\$50
02386	RESIN RESTORATIONS - TWO SURFACES, POSTERIOR - PERMANENT	\$100
02387	RESIN RESTORATIONS - THREE OR MORE SURFACES, POSTERIOR - PERMANENT	\$125
02399	UNSPECIFIED PROCEDURE	BR
02410	GOLD FOIL RESTORATIONS - ONE SURFACE	\$199
02420	GOLD FOIL RESTORATIONS - TWO SURFACES	\$361
02430	GOLD FOIL RESTORATIONS - THREE SURFACES	\$523
02499	UNSPECIFIED GOLD FOIL RESTORATION	BR
02510	INLAY RESTORATIONS - METALLIC - ONE SURFACE	\$150
02520	INLAY RESTORATIONS - METALLIC - TWO SURFACES	\$249
02530	INLAY RESTORATIONS - METALLIC - THREE SURFACES	\$299
02540	ONLAY RESTORATIONS - METALLIC - PER TOOTH (IN ADDITION TO INLAY)	\$100
02550	INLAY, GOLD, RESTORE FRACTURED ANTERIOR TOOTH	\$249
02560	PINLEDGE RESTORATION	\$374
02599	UNSPECIFIED GOLD INLAY PROCEDURE	BR
02610	INLAY RESTORATIONS - PORCELAIN/CERAMIC - ONE SURFACE	\$199
02620	INLAY RESTORATIONS - PORCELAIN/CERAMIC - TWO SURFACES	\$324
02630	INLAY RESTORATIONS - PORCELAIN/CERAMIC - THREE SURFACES	\$424
02640	ONLAY - PORCELAIN/CERAMIC - PER TOOTH (IN ADDITION TO INLAY)	\$75
02650	INLAY - COMPOSITE/RESIN - ONE SURFACE (LABORATORY PROCESSED)	\$199

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OFFICE OF WORKERS' COMPENSATION ADMINISTRATION

CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
02651	INLAY - COMPOSITE/RESIN - TWO SURFACES (LABORATORY PROCESSED)	\$324
02652	INLAY - COMPOSITE/RESIN - THREE SURFACES (LABORATORY PROCESSED)	\$424
02660	ONLAY - COMPOSITE/RESIN - PER TOOTH (IN ADDITION TO INLAY - LABORATORY PROCESSED)	\$75
02710	CROWN RESTORATIONS - RESIN (LABORATORY)	\$249
02711	<i>CROWN - PLASTIC, PREFABRICATED</i>	\$75
02720	CROWN RESTORATIONS - RESIN WITH HIGH NOBLE METAL	\$498
02721	CROWN RESTORATIONS - RESIN WITH PREDOMINANTLY BASE METAL	\$374
02722	CROWN RESTORATIONS - RESIN WITH NOBLE METAL	\$424
02740	CROWN RESTORATIONS - PORCELAIN/CERAMIC SUBSTRATE	\$498
02750	CROWN RESTORATIONS - PORCELAIN FUSED TO HIGH NOBLE METAL	\$548
02751	CROWN RESTORATIONS - PORCELAIN FUSED TO PREDOMINANTLY BASE METAL	\$399
02752	CROWN RESTORATIONS - PORCELAIN FUSED TO NOBLE METAL	\$449
02790	CROWN RESTORATIONS - FULL CAST HIGH NOBLE METAL	\$474
02791	CROWN RESTORATIONS - FULL CAST PREDOMINANTLY BASE METAL	\$349
02792	CROWN RESTORATIONS - FULL CAST NOBLE METAL	\$399
02810	CROWN RESTORATIONS - 3/4 CAST METALLIC	\$474
02830	<i>CROWN - STAINLESS STEEL - PREFABRICATED</i>	\$100
02840	<i>TEMPORARY OR EMERGENCY (FRACTURED TOOTH)</i>	\$100
02891	<i>CAST POST AND CORE, IN ADDITION TO CROWN</i>	\$199
02892	<i>STEEL POST AND COMPOSITE OR AMALGAM IN ADDITION TO CROWN</i>	\$125
02899	<i>UNSPECIFIED CROWN PROCEDURE</i>	BR
02910	RECEMENT INLAY	\$37
02920	RECEMENT CROWN	\$37
02930	PREFABRICATED STAINLESS STEEL CROWN - PRIMARY TOOTH	\$100
02931	PREFABRICATED STAINLESS STEEL CROWN - PERMANENT TOOTH	\$150
02932	PREFABRICATED RESIN CROWN	\$75
02933	PREFABRICATED STAINLESS STEEL CROWN WITH RESIN WINDOW	\$112

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
02940	SEDATIVE FILLING	\$37
02950	CORE BUILD-UP, INCLUDING ANY PINS	\$150
02951	PIN RETENTION - PER TOOTH, IN ADDITION TO RESTORATION	\$25
02952	CAST POST AND CORE IN ADDITION TO CROWN	\$199
<i>02953</i>	<i>CAST POST AS PART OF CROWN</i>	\$125
02954	PREFABRICATED POST AND CORE IN ADDITION TO CROWN	\$125
<i>02955</i>	<i>INTERMEDIATE BASE</i>	\$12
02960	LABIAL VENEER (LAMINATE) - CHAIRSIDE	\$150
02961	LABIAL VENEER (RESIN LAMINATE) - LABORATORY	\$249
02962	LABIAL VENEER (PORCELAIN LAMINATE) - LABORATORY	\$249
02970	TEMPORARY CROWN (FRACTURED TOOTH)	\$100
02980	CROWN REPAIR, BY REPORT	BR
02999	UNSPECIFIED RESTORATIVE PROCEDURE, BY REPORT	BR
03110	PULP CAP - DIRECT (EXCLUDING FINAL RESTORATION)	\$31
03120	PULP CAP - INDIRECT (EXCLUDING FINAL RESTORATION)	\$25
<i>03130</i>	<i>RECALCIFICATION</i>	BR
03220	THERAPEUTIC PULPOTOMY (EXCLUDING FINAL RESTORATION)	\$75
<i>03230</i>	<i>PULPECTOMY</i>	\$75
03310	ROOT CANAL THERAPY, ANTERIOR (EXCLUDING FINAL RESTORATION)	\$199
<i>03311</i>	<i>ONE CANAL - PRIMARY TOOTH (EXCLUDING FINAL RESTORATION)</i>	\$100
03320	ROOT CANAL THERAPY, BICUSPID (EXCLUDING FINAL RESTORATION)	\$249
<i>03321</i>	<i>TWO CANALS - PRIMARY TOOTH</i>	\$150
03330	ROOT CANAL THERAPY, MOLAR (EXCLUDING FINAL RESTORATION)	\$349
<i>03331</i>	<i>THREE CANALS - PRIMARY TOOTH</i>	\$174
<i>03340</i>	<i>ROOT CANAL THERAPY, FOUR OR MORE CANALS - PERMANENT TOOTH (EXCLUDING FINAL RESTORATION)</i>	\$399
<i>03341</i>	<i>FOUR OR MORE CANALS - PRIMARY TOOTH</i>	\$199
03346	RETREATMENT - ANTERIOR, BY REPORT	BR
03347	RETREATMENT - BICUSPID, BY REPORT	BR
03348	RETREATMENT - MOLAR, BY REPORT	BR
03350	APEXIFICATION (PER TREATMENT VISIT)	\$75

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
03351	APEXIFICATION/RECALCIFICATION - INITIAL VISIT (APICAL CLOSURE/CALCIFIC REPAIR OF PERFORATIONS, ROOT RESORPTION, ETC.)	\$100
03352	APEXIFICATION/RECALCIFICATION - INTERIM MEDICATION REPLACEMENT (APICAL CLOSURE/CALCIFIC REPAIR OF PERFORATIONS, ROOT RESORPTION, ETC.)	\$100
03353	APEXIFICATION/RECALCIFICATION - FINAL VISIT (INCLUDES COMPLETED ROOT CANAL THERAPY - APICAL CLOSURE/CALCIFIC REPAIR OF PERFORATIONS, ROOT RESORPTION, ETC.)	\$199
03399	<i>UNSPECIFIED ROOT CANAL PROCEDURE</i>	BR
03410	APICOECTOMY/PERIRADICULAR SURGERY - ANTERIOR	\$174
03421	APICOECTOMY/PERIRADICULAR SURGERY - BICUSPID (FIRST ROOT)	\$187
03425	APICOECTOMY/PERIRADICULAR SURGERY - MOLAR (FIRST ROOT)	\$199
03426	APICOECTOMY/PERIRADICULAR SURGERY - (EACH ADDITIONAL ROOT)	\$75
03427	<i>APICOECTOMY - PERFORMED IN CONJUNCTION WITH ENDODONTIC PROCEDURE (PER ROOT)</i>	\$75
03430	RETROGRADE FILLING - PER ROOT	\$75
03440	<i>APICAL CURETTAGE</i>	\$150
03450	ROOT AMPUTATION - PER ROOT	\$125
03460	ENDODONTIC ENDOSSEOUS IMPLANT	BR
03470	INTENTIONAL REPLANTATION (INCLUDING NECESSARY SPLINTING)	BR
03499	<i>UNSPECIFIED PERIAPICAL SERVICES</i>	BR
03910	SURGICAL PROCEDURE FOR ISOLATION OF TOOTH WITH RUBBER DAM	\$50
03920	HEMISECTION (INCLUDING ANY ROOT REMOVAL), NOT INCLUDING ROOT CANAL THERAPY	\$100
03940	<i>RECALCIFICATIONS OF REPAIR (PERFORATIONS, ROOT RESORPTION, ETC.)</i>	\$75
03950	CANAL PREPARATION AND FITTING OF PREFORMED DOWEL OR POST	\$75
03960	BLEACHING OF DISCOLORED TOOTH	\$100
03970	<i>EMERGENCY PROCEDURES</i>	BR
03999	UNSPECIFIED ENDODONTIC PROCEDURE, BY REPORT	BR
04110	<i>PERIODONTAL EXAM</i>	\$50
04210	GINGIVECTOMY OR GINGIVOPLASTY - PER QUADRANT	\$150
04211	GINGIVECTOMY OR GINGIVOPLASTY - PER TOOTH	\$50

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
04220	GINGIVAL CURETTAGE, SURGICAL, PER QUADRANT, BY REPORT	BR
04221	<i>GINGIVAL CURETTAGE - PER TOOTH</i>	\$50
04230	<i>DISTAL WEDGE PROCEDURE</i>	\$150
04240	GINGIVAL FLAP PROCEDURE, INCLUDING ROOT PLANING - PER QUADRANT	\$150
04249	CROWN LENGTHENING - HARD AND SOFT TISSUE, BY REPORT	BR
04250	MUCOGINGIVAL SURGERY - PER QUADRANT	\$199
04251	<i>MUCOGINGIVAL SURGERY - PER TOOTH</i>	\$125
04260	OSSEOUS SURGERY (INCLUDING FLAP ENTRY AND CLOSURE) - PER QUADRANT	\$249
04261	BONE REPLACEMENT GRAFT - SINGLE SITE (INCLUDING FLAP ENTRY AND CLOSURE)	BR
04262	BONE REPLACEMENT GRAFT - MULTIPLE SITES (INCLUDING FLAP ENTRY AND CLOSURE)	BR
04268	GUIDED TISSUE REGENERATION (INCLUDES THE SURGERY AND RE-ENTRY)	BR
04270	PEDICLE SOFT TISSUE GRAFT PROCEDURE	\$150
04271	FREE SOFT TISSUE GRAFT PROCEDURE (INCLUDING DONOR SITE)	\$199
04272	<i>APICALLY REPOSITIONED FLAP PROCEDURE</i>	\$199
04280	<i>PERIODONTAL PULPAL PROCEDURES (EXCLUDING ROOT CANAL)</i>	BR
04320	PROVISIONAL SPLINTING - INTRACORONAL	\$25
04321	PROVISIONAL SPLINTING - EXTRACORONAL	\$25
04330	OCCLUSAL ADJUSTMENT (LIMITED) PER TOOTH - UP TO 8 TEETH	\$12
04331	OCCLUSAL ADJUSTMENT (COMPLETE)	\$249
04340	<i>ROOT PLANING (ENTIRE MOUTH)</i>	\$498
04341	PERIODONTAL SCALING AND ROOT PLANING - PER QUADRANT	\$125
04345	PERIODONTAL SCALING PERFORMED IN THE PRESENCE OF GINGIVAL INFLAMMATION	\$50
04350	<i>TOOTH MOVEMENT FOR PERIODONTAL PURPOSES</i>	BR
04360	<i>SPECIAL PERIODONTAL APPLIANCES (INCLUDING OCCLUSAL GUARDS)</i>	\$299
04370	<i>RE-EVALUATION OF PERIODONTIC THERAPY</i>	BR
04910	PERIODONTAL MAINTENANCE PROCEDURES (FOLLOWING ACTIVE THERAPY)	\$50
04920	UNSCHEDULED DRESSING CHANGE (BY SOMEONE OTHER THAN TREATING DENTIST)	\$50

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
04999	UNSPECIFIED PERIODONTAL PROCEDURE, BY REPORT	BR
05110	COMPLETE UPPER DENTURES	\$623
05120	COMPLETE LOWER DENTURES	\$623
05130	IMMEDIATE UPPER DENTURES	\$685
05140	IMMEDIATE LOWER DENTURES	\$685
05211	UPPER PARTIAL DENTURES - RESIN BASE (INCLUDING ANY CONVENTIONAL CLASPS, RESTS AND TEETH)	\$249
05212	LOWER PARTIAL DENTURES - RESIN BASE (INCLUDING ANY CONVENTIONAL CLASPS, RESTS AND TEETH)	\$249
05213	UPPER PARTIAL DENTURES - CAST METAL BASE WITH RESIN SADDLES (INCLUDING ANY CONVENTIONAL CLASPS, RESTS AND TEETH)	\$623
05214	LOWER PARTIAL DENTURES - CAST METAL BASE WITH RESIN SADDLES (INCLUDING ANY CONVENTIONAL CLASPS, RESTS AND TEETH)	\$623
05215	UPPER PARTIAL DENTURES - HIGH NOBLE CAST BASE WITH ACRYLIC SADDLES (INCLUDING ANY CONVENTIONAL CLASPS, RESTS, AND TEETH)	\$997
05216	LOWER PARTIAL DENTURES - HIGH NOBLE CAST BASE WITH ACRYLIC SADDLES (INCLUDING ANY CONVENTIONAL CLASPS, RESTS, AND TEETH)	\$997
05280	REMOVABLE UNILATERAL PARTIAL DENTURE - ONE PIECE HIGH NOBLE CASTING, CLASPS ATTACHMENTS - PER UNIT (INCLUDING PONTICS)	\$598
05281	REMOVABLE UNILATERAL PARTIAL DENTURE - ONE PIECE CAST METAL, (INCLUDING CLASPS AND PONTICS)	\$498
05310	EACH ADDITIONAL CLASP WITH REST	\$62
05399	UNSPECIFIED DENTURE PROCEDURE	BR
05410	ADJUST COMPLETE DENTURE - UPPER	\$50
05411	ADJUST COMPLETE DENTURE - LOWER	\$50
05421	ADJUST PARTIAL DENTURE - UPPER	\$50
05422	ADJUST PARTIAL DENTURE - LOWER	\$50
05510	REPAIR BROKEN COMPLETE DENTURE BASE	\$75
05520	REPLACE MISSING OR BROKEN TEETH - COMPLETE DENTURE (EACH TOOTH)	\$50
05610	REPAIR RESIN SADDLE OR BASE	\$75
05620	REPAIR CAST FRAMEWORK	\$150
05630	REPAIR OR REPLACE BROKEN CLASP	\$150
05640	REPLACE BROKEN TEETH - PER TOOTH	\$75
05650	ADD TOOTH TO EXISTING PARTIAL DENTURE	\$75

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
05660	ADD CLASP TO EXISTING PARTIAL DENTURE TOOTH, INVOLVING CLASP OR ABUTMENT	\$125
<i>05670</i>	<i>REATTACH DAMAGED CLASP ON DENTURE</i>	\$75
<i>05680</i>	<i>REPLACE BROKEN CLASP WITH NEW CLASP ON DENTURE</i>	\$125
<i>05690</i>	<i>EACH ADDITIONAL CLASP WITH REST</i>	\$62
<i>05695</i>	<i>PRECISION ATTACHMENT, PARTIAL DENTURE</i>	BR
<i>05699</i>	<i>UNSPECIFIED DENTURE REPAIR PROCEDURE</i>	BR
05710	REBASE COMPLETE UPPER DENTURE	\$249
05711	REBASE COMPLETE LOWER DENTURE	\$249
05720	REBASE UPPER PARTIAL DENTURE	\$199
05721	REBASE LOWER PARTIAL DENTURE	\$199
05730	RELINE UPPER COMPLETE DENTURE (CHAIRSIDE)	\$150
05731	RELINE LOWER COMPLETE DENTURE (CHAIRSIDE)	\$150
05740	RELINE UPPER PARTIAL DENTURE (CHAIRSIDE)	\$125
05741	RELINE LOWER PARTIAL DENTURE (CHAIRSIDE)	\$125
05750	RELINE UPPER COMPLETE DENTURE (LABORATORY)	\$199
05751	RELINE LOWER COMPLETE DENTURE (LABORATORY)	\$199
05760	RELINE UPPER PARTIAL DENTURE (LABORATORY)	\$199
05761	RELINE LOWER PARTIAL DENTURE (LABORATORY)	\$199
05810	INTERIM COMPLETE DENTURE (UPPER)	\$299
05811	INTERIM COMPLETE DENTURE (LOWER)	\$299
05820	INTERIM PARTIAL DENTURE (UPPER)	\$249
05821	INTERIM PARTIAL DENTURE (LOWER)	\$249
<i>05830</i>	<i>OBTURATOR FOR SURGICALLY EXCISED PALATAL TISSUE</i>	\$312
<i>05840</i>	<i>OBTURATOR FOR DEFICIENT VELOPHARYNGEAL FUNCTION (CLEFT PALATE)</i>	\$1,246
05850	TISSUE CONDITIONING, UPPER - PER DENTURE UNIT	\$50
05851	TISSUE CONDITIONING, LOWER - PER DENTURE UNIT	\$50
05860	OVERDENTURE - COMPLETE, BY REPORT	BR
05861	OVERDENTURE - PARTIAL, BY REPORT	BR
05862	PRECISION ATTACHMENT, BY REPORT (REMOVABLE PROSTHODONTICS)	BR
05899	UNSPECIFIED REMOVABLE PROSTHODONTIC PROCEDURE, BY REPORT	BR
05911	FACIAL MOULAGE (SECTIONAL)	\$100
05912	FACIAL MOULAGE (COMPLETE)	\$150
05913	NASAL PROSTHESIS	\$2,492
05914	AURICULAR PROSTHESIS	\$2,492
05915	ORBITAL PROSTHESIS	\$3,365
05916	OCULAR PROSTHESIS	\$3,489
<i>05917</i>	<i>COMPOSITE FACIAL PROSTHESIS</i>	BR

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
05918	REPLACEMENT PROSTHESIS (NOTE: REPLACEMENT IS USUALLY ESTABLISHED AT ONE-HALF THE ORIGINAL VALUE.)	BR
05919	FACIAL PROSTHESIS	BR
05920	OCULAR IMPLANT	BR
05921	ORBITAL IMPLANT	BR
05922	NASAL SEPTAL PROSTHESIS	\$1,620
05923	OCULAR PROSTHESIS, INTERIM	\$1,994
05924	CRANIAL PROSTHESIS	BR
05925	FACIAL AUGMENTATION IMPLANT PROSTHESIS	BR
05926	NASAL PROSTHESIS, REPLACEMENT	\$1,246
05927	AURICULAR PROSTHESIS, REPLACEMENT	\$1,246
05928	ORBITAL PROSTHESIS, REPLACEMENT	\$1,682
05929	FACIAL PROSTHESIS, REPLACEMENT	BR
05931	OBTURATOR PROSTHESIS, SURGICAL	\$798
05932	OBTURATOR PROSTHESIS, DEFINITIVE	\$1,869
05933	OBTURATOR PROSTHESIS, MODIFICATION	\$374
05934	MANDIBULAR RESECTION PROSTHESIS WITH GUIDE FLANGE	\$1,869
05935	MANDIBULAR RESECTION PROSTHESIS WITHOUT GUIDE FLANGE	\$1,869
05936	OBTURATOR PROSTHESIS, INTERIM	\$685
05951	FEEDING AID	\$748
05952	SPEECH AID PROSTHESIS, PEDIATRIC	\$748
05953	SPEECH AID PROSTHESIS, ADULT	\$748
05954	PALATAL AUGMENTATION PROSTHESIS	BR
05955	PALATAL LIFT PROSTHESIS, DEFINITIVE	\$1,620
05956	OBTURATOR	BR
05957	SPEECH BULB	\$1,869
05958	PALATAL LIFT PROSTHESIS, INTERIM	\$947
05959	PALATAL LIFT PROSTHESIS, MODIFICATION	\$299
05960	SPEECH AID PROSTHESIS, MODIFICATION	\$199
05982	SURGICAL STENT	\$299
05983	RADIATION CARRIER	BR
05984	RADIATION SHIELD	BR
05985	RADIATION CONE LOCATOR	\$698
05986	FLUORIDE GEL CARRIER	\$75
05987	COMMISSURE SPLINT	BR
05988	SURGICAL SPLINT	BR
05999	UNSPECIFIED MAXILLOFACIAL PROSTHESIS, BY REPORT	BR
06030	ENDOSSEOUS IMPLANT (IN THE BONE)	\$997

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
06040	SUBPERIOSTIAL IMPLANT	BR
06050	TRANSOSSEOUS IMPLANT	\$1,495
06053	<i>MANDIBULAR STAPLE IMPLANT</i>	\$2,492
06055	IMPLANT CONNECTING BAR	\$935
06080	IMPLANT MAINTENANCE PROCEDURES, INCLUDING REMOVAL OF PROSTHESIS, CLEANSING OF PROSTHESIS AND ABUTMENTS, REINSERTION OF PROSTHESIS	BR
06090	REPAIR IMPLANT	BR
06100	IMPLANT REMOVAL	BR
06199	UNSPECIFIED IMPLANT PROCEDURE	BR
06210	BRIDGE PONTIC - CAST HIGH NOBLE METAL	\$498
06211	BRIDGE PONTIC - CAST PREDOMINANTLY BASE METAL	\$349
06212	BRIDGE PONTIC - CAST NOBLE METAL	\$399
06220	<i>SLOTTED FACING</i>	\$100
06230	<i>SLOTTED PONTIC</i>	\$100
06235	<i>PIN FACING</i>	\$100
06240	BRIDGE PONTIC - PORCELAIN FUSED TO HIGH NOBLE METAL	\$548
06241	BRIDGE PONTIC - PORCELAIN FUSED TO PREDOMINANTLY BASE METAL	\$449
06242	BRIDGE PONTIC - PORCELAIN FUSED TO NOBLE METAL	\$498
06250	BRIDGE PONTIC - RESIN WITH HIGH NOBLE METAL	\$498
06251	BRIDGE PONTIC - RESIN WITH PREDOMINANTLY BASE METAL	\$349
06252	BRIDGE PONTIC - RESIN WITH NOBLE METAL	\$449
06299	<i>UNSPECIFIED PONTIC PROCEDURE</i>	BR
06520	INLAY RETAINER - METALLIC - TWO SURFACES	\$249
06530	INLAY RETAINER - METALLIC - THREE OR MORE SURFACES	\$299
06540	ONLAY RETAINER - METALLIC - PER TOOTH (IN ADDITION TO INLAY)	\$498
06545	RETAINER - CAST METAL FOR ACID ETCHED FIXED PROSTHESIS	BR
06610	<i>REPLACE BROKEN PIN FACING WITH SLOTTED OR OTHER FACING</i>	\$75
06620	<i>REPLACE BROKEN FACING WHERE POST IS INTACT</i>	\$75
06630	<i>REPLACE BROKEN FACING WHERE POST BACKING IS BROKEN</i>	\$100
06640	<i>REPLACE BROKEN FACING WITH ACRYLIC</i>	\$75
06650	<i>REPLACE BROKEN PONTIC</i>	\$75
06699	<i>UNSPECIFIED REPAIR PROCEDURE</i>	BR

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
06720	BRIDGE RETAINER - CROWN - RESIN WITH HIGH NOBLE METAL	\$498
06721	BRIDGE RETAINER - CROWN - RESIN WITH PREDOMINANTLY BASE METAL	\$374
06722	BRIDGE RETAINER - CROWN - RESIN WITH NOBLE METAL	\$424
06740	<i>CROWN - PORCELAIN</i>	\$498
06750	BRIDGE RETAINER - CROWN - PORCELAIN FUSED TO HIGH NOBLE METAL	\$598
06751	BRIDGE RETAINER - CROWN - PORCELAIN FUSED TO PREDOMINANTLY BASE METAL	\$399
06752	BRIDGE RETAINER - CROWN - PORCELAIN FUSED TO NOBLE METAL	\$498
06780	BRIDGE RETAINER - CROWN - 3/4 CAST HIGH NOBLE METAL	\$474
06790	BRIDGE RETAINER - CROWN - FULL CAST HIGH NOBLE METAL	\$474
06791	BRIDGE RETAINER - CROWN - FULL CAST PREDOMINANTLY BASE METAL	\$349
06792	BRIDGE RETAINER - CROWN - FULL CAST NOBLE METAL	\$424
06930	RECEMENT BRIDGE	\$50
06940	STRESS BREAKER	\$125
06950	PRECISION ATTACHMENT (FIXED PROSTHODONTICS)	\$199
06961	<i>NIGHTGUARD</i>	\$199
06970	CAST POST AND CORE IN ADDITION TO BRIDGE RETAINER	\$199
06971	CAST POST AS PART OF BRIDGE RETAINER	\$199
06972	PREFABRICATED POST AND CORE IN ADDITION TO BRIDGE RETAINER	\$150
06973	CORE BUILD-UP FOR RETAINER, INCLUDING ANY PINS	\$199
06975	COPING - METAL	BR
06980	BRIDGE REPAIR, BY REPORT	BR
06999	UNSPECIFIED FIXED PROSTHODONTIC PROCEDURE, BY REPORT	BR
07110	EXTRACTION SINGLE TOOTH	\$50
07120	EXTRACTION EACH ADDITIONAL TOOTH	\$50
07130	ROOT REMOVAL - EXPOSED ROOTS	BR
07210	SURGICAL REMOVAL OF ERUPTED TOOTH REQUIRING ELEVATION OF MUCOPERIOSTEAL FLAP AND REMOVAL OF BONE AND/OR SECTION OF TOOTH	\$100
07220	REMOVAL OF IMPACTED TOOTH - SOFT TISSUE	\$199

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
07230	REMOVAL OF IMPACTED TOOTH - PARTIALLY BONY	\$249
07240	REMOVAL OF IMPACTED TOOTH - COMPLETELY BONY	\$249
07241	REMOVAL OF IMPACTED TOOTH - COMPLETELY BONY, WITH UNUSUAL SURGICAL	\$249
07250	SURGICAL REMOVAL OF RESIDUAL TOOTH ROOTS (CUTTING PROCEDURE)	\$100
07260	ORAL ANTRAL FISTULA CLOSURE	\$299
07261	<i>ANTROTOMY, RADICAL, UNILATERAL (CALDWELL-LUC)</i>	\$349
07262	<i>ANTROTOMY, RADICAL, BILATERAL (CALDWELL-LUC)</i>	\$598
07270	TOOTH RE-IMPLANTATION AND/OR STABILIZATION OF ACCIDENTALLY EVULSED OR DISPLACED TOOTH AND/OR ALVEOLUS	\$125
07271	TOOTH IMPLANTATION	\$299
07272	TOOTH TRANSPLANTATION	\$249
07280	SURGICAL EXPOSURE OF IMPACTED OR UNERUPTED TOOTH FOR ORTHODONTIC REASONS (INCLUDING ORTHODONTIC ATTACHMENTS)	\$150
07281	SURGICAL EXPOSURE OF IMPACTED OR UNERUPTED TOOTH TO AID ERUPTION	\$100
07285	BIOPSY OF ORAL TISSUE - HARD	\$100
07286	BIOPSY OF ORAL TISSUE - SOFT	\$100
07290	SURGICAL REPOSITIONING OF TEETH	\$299
07291	TRANSSEPTAL FIBEROTOMY	\$50
07310	ALVEOLOPLASTY IN CONJUNCTION WITH EXTRACTIONS - PER QUADRANT	\$105
07320	ALVEOLOPLASTY NOT IN CONJUNCTION WITH EXTRACTIONS - PER QUADRANT	\$132
07340	VESTIBULOPLASTY - RIDGE EXTENSION (SECONDARY EPITHELIALIZATION)	\$623
07350	VESTIBULOPLASTY - RIDGE EXTENSION (INCLUDING SOFT TISSUE GRAFTS, MUSCLE REATTACHMENTS, REVISION OF SOFT TISSUE ATTACHMENT, AND MANAGEMENT OF HYPERTROPHIED AND HYPERPLASTIC TISSUE)	\$997
07360	<i>TUBEROSITY, REDUCTION</i>	\$100
07370	<i>MYOHYOID RIDGE, REDUCTION</i>	\$299
07410	RADICAL EXCISION - LESION DIAMETER UP TO 1.25 CM	\$125
07420	RADICAL EXCISION - LESION DIAMETER OVER 1.25 CM	\$174
07425	<i>EXCISION PERICORONAL GINGIVA</i>	\$62
07428	<i>GLOSSEOPLASTY (TONGUE REPAIR)</i>	\$199

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
07430	EXCISION OF BENIGN TUMOR - LESION DIAMETER UP TO 1.25 CM	\$162
07431	EXCISION OF BENIGN TUMOR - LESION DIAMETER OVER 1.25 CM	\$249
07440	EXCISION OF MALIGNANT TUMOR - LESION DIAMETER UP TO 1.25 CM	\$798
07441	EXCISION OF MALIGNANT TUMOR - LESION DIAMETER OVER 1.25 CM	BR
07450	REMOVAL OF ODONTOGENIC CYST OR TUMOR - LESION DIAMETER UP TO 1.25 CM	\$249
07451	REMOVAL OF ODONTOGENIC CYST OR TUMOR - LESION DIAMETER OVER 1.25 CM	\$399
07460	REMOVAL OF NONODONTOGENIC CYST OR TUMOR - LESION DIAMETER UP TO 1.25 CM	\$249
07461	REMOVAL OF NONODONTOGENIC CYST OR TUMOR - LESION DIAMETER OVER 1.25 CM	\$399
07465	DESTRUCTION OF LESION(S) BY PHYSICAL OR CHEMICAL METHOD, BY REPORT	BR
07470	REMOVAL OF EXOSTOSIS - MAXILLA OR MANDIBLE	\$187
07480	PARTIAL OSTECTOMY (GUTTERING OR SAUCERIZATION)	\$386
07490	RADICAL RESECTION OF MANDIBLE WITH BONE GRAFT	\$4,985
07510	INCISION AND DRAINAGE OF ABSCESS - INTRAORAL SOFT TISSUE	\$100
07520	INCISION AND DRAINAGE OF ABSCESS - EXTRAORAL SOFT TISSUE	\$150
07530	REMOVAL OF FOREIGN BODY, SKIN, OR SUBCUTANEOUS AREOLAR TISSUE	BR
07540	REMOVAL OF REACTION-PRODUCING FOREIGN BODIES - MUSCULOSKELETAL SYSTEM	\$150
07550	SEQUESTRECTOMY FOR OSTEOMYELITIS	\$436
07560	MAXILLARY SINUSOTOMY FOR REMOVAL OF TOOTH FRAGMENT OR FOREIGN BODY	\$324
07610	TREATMENT OF FRACTURE - SIMPLE - MAXILLA - OPEN REDUCTION (TEETH IMMOBILIZED IF PRESENT)	\$997
07620	TREATMENT OF FRACTURE - SIMPLE - MAXILLA - CLOSED REDUCTION (TEETH IMMOBILIZED IF PRESENT)	\$872
07630	TREATMENT OF FRACTURE - SIMPLE - MANDIBLE - OPEN REDUCTION (TEETH IMMOBILIZED IF PRESENT)	\$1,122
07640	TREATMENT OF FRACTURE - SIMPLE - MANDIBLE - CLOSED REDUCTION (TEETH IMMOBILIZED IF PRESENT)	\$997

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
07650	TREATMENT OF FRACTURE - SIMPLE - MALAR AND/OR ZYGOMATIC ARCH - OPEN REDUCTION	\$623
07660	TREATMENT OF FRACTURE - SIMPLE - MALAR AND/OR ZYGOMATIC ARCH - CLOSED	\$498
07670	TREATMENT OF FRACTURE - SIMPLE - ALVEOLUS - STABILIZATION OF TEETH, OPEN	\$498
07680	TREATMENT OF FRACTURE - SIMPLE - FACIAL BONES - COMPLICATED REDUCTION WITH FIXATION AND MULTIPLE SURGICAL APPROACHES	\$1,246
07710	TREATMENT OF FRACTURE - COMPOUND - MAXILLA - OPEN REDUCTION	\$1,246
07720	TREATMENT OF FRACTURE - COMPOUND - MAXILLA - CLOSED REDUCTION	\$1,097
07730	TREATMENT OF FRACTURE - COMPOUND - MANDIBLE - OPEN REDUCTION	\$1,421
07740	TREATMENT OF FRACTURE - COMPOUND - MANDIBLE - CLOSED REDUCTION	\$1,122
07750	TREATMENT OF FRACTURE - COMPOUND - MALAR AND/OR ZYGOMATIC ARCH - OPEN REDUCTION	\$785
07760	TREATMENT OF FRACTURE - COMPOUND - MALAR AND/OR ZYGOMATIC ARCH - CLOSED REDUCTION	\$648
07770	TREATMENT OF FRACTURE - COMPOUND - ALVEOLUS - STABILIZATION OF TEETH, OPEN REDUCTION SPLINTING	\$648
07780	TREATMENT OF FRACTURE - COMPOUND - FACIAL BONES - COMPLICATED REDUCTION WITH FIXATION AND MULTIPLE SURGICAL APPROACHES	BR
<i>07805</i>	<i>INJECTION (EACH)</i>	\$25
07810	OPEN REDUCTION OF DISLOCATION TEMPOROMANDIBULAR JOINT	\$1,570
07820	CLOSED REDUCTION OF DISLOCATION TEMPOROMANDIBULAR JOINT	\$237
<i>07825</i>	<i>CLOSED REDUCTION OF DISLOCATION TEMPOROMANDIBULAR JOINT, SUBSEQUENT</i>	BR
07830	MANIPULATION UNDER ANESTHESIA TEMPOROMANDIBULAR JOINT	\$125
07840	CONDYLECTOMY TEMPOROMANDIBULAR JOINT	\$1,495
07850	SURGICAL DISCECTOMY; WITH/WITHOUT IMPLANT TEMPOROMANDIBULAR JOINT	\$748
07852	DISC REPAIR	\$897
07854	SYNOVECTOMY	\$698
07856	MYOTOMY	BR

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
07858	JOINT RECONSTRUCTION	\$2,791
07860	ARTHROTOMY TEMPOROMANDIBULAR JOINT	\$748
07865	ARTHROPLASTY	\$2,094
07870	ARTHROCENTESIS TEMPOROMANDIBULAR JOINT	\$100
07872	ARTHROSCOPY - DIAGNOSIS, WITH OR WITHOUT BIOPSY	\$648
07873	ARTHROSCOPY - SURGICAL, LAVAGE AND LYSIS OF ADHESIONS	\$710
07874	ARTHROSCOPY - SURGICAL, DISC REPOSITIONING AND STABILIZATION	\$897
07875	ARTHROSCOPY - SURGICAL, SYNOVECTOMY	\$960
07876	ARTHROSCOPY - SURGICAL, DISCECTOMY	\$997
07877	ARTHROSCOPY - SURGICAL, DEBRIDEMENT	\$922
07880	OCCLUSAL ORTHOTIC DEVICE, BY REPORT TEMPOROMANDIBULAR JOINT	BR
07899	UNSPECIFIED TMD THERAPY	BR
07910	SUTURE OF RECENT SMALL WOUNDS UP TO 5 CM	\$32
07911	COMPLICATED SUTURE - UP TO 5 CM	\$65
07912	COMPLICATED SUTURE - GREATER THAN 5 CM	\$12
07920	SKIN GRAFTS (IDENTIFY DEFECT COVERED, LOCATION, AND TYPE OF GRAFT)	BR
<i>07930</i>	<i>INJECTION OF TRIGEMINAL NERVE BRANCHES FOR DESTRUCTION</i>	\$349
<i>07931</i>	<i>AVULSION OF TRIGEMINAL NERVE BRANCHES</i>	BR
07940	OSTEOPLASTY - FOR ORTHOGNATHIC DEFORMITIES	\$1,495
07941	OSTEOTOMY - RAMUS, CLOSED	\$997
07942	OSTEOTOMY - RAMUS, OPEN	\$1,495
07943	OSTEOTOMY - RAMUS, OPEN WITH BONE GRAFT	\$1,869
07944	OSTEOTOMY - SEGMENTED OR SUBAPICAL - PER SEXTANT OR QUADRANT	\$1,246
07945	OSTEOTOMY - BODY OF MANDIBLE	\$1,246
07946	LEFORT I (MAXILLA - TOTAL)	\$3,115
07947	LEFORT I (MAXILLA - SEGMENTED)	\$3,115
07948	LEFORT II OR LEFORT III (OSTEOPLASTY OF FACIAL BONES FOR MIDFACE HYPOPLASIA OR RETRUSION) - WITHOUT BONE GRAFT	\$3,489
07949	LEFORT II OR LEFORT III - WITH BONE GRAFT	BR
07950	OSSEOUS, OSTEOPERIOSTEAL, PERIOSTEAL, OR CARTILAGE GRAFT OF THE MANDIBLE - AUTOGENOUS OR NONAUTOGENOUS	BR
07955	REPAIR OF MAXILLOFACIAL SOFT AND HARD TISSUE DEFECTS	BR

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
07960	FRENULECTOMY (FRENECTOMY OR FRENOTOMY) - SEPARATE PROCEDURE	\$150
07970	EXCISION OF HYPERPLASTIC TISSUE - PER ARCH	\$299
07971	EXCISION OF PERICORONAL GINGIVA	\$150
07980	SIALOLITHOTOMY	\$299
07981	EXCISION OF SALIVARY GLAND	\$498
07982	SIALODOCHOPLASTY	\$710
07983	CLOSURE OF SALIVARY FISTULA	\$299
07990	EMERGENCY TRACHEOTOMY	\$623
07991	CORONOIDECTOMY	\$997
07992	<i>EMINENECTOMY</i>	\$1,246
07993	IMPLANT - FACIAL BONES (HOMOLOGOUS, HETEROLOGOUS, OR ALLOPLASTIC)	\$748
07994	IMPLANT - CHIN (HOMOLOGOUS, HERTOLOGOUS, OR ALLOPLASTIC)	\$748
07999	UNSPECIFIED ORAL SURGERY PROCEDURE, BY REPORT	BR
08110	REMOVABLE APPLIANCE THERAPY FOR TOOTH GUIDANCE	\$174
08120	FIXED APPLIANCE THERAPY FOR TOOTH GUIDANCE	\$199
08210	REMOVABLE APPLIANCE THERAPY TO CONTROL HARMFUL HABITS	\$150
08220	FIXED APPLIANCE THERAPY TO CONTROL HARMFUL HABITS	\$174
08360	REMOVABLE APPLIANCE THERAPY - INTERCEPTIVE ORTHODONTIC TREATMENT	\$174
08370	FIXED APPLIANCE THERAPY - INTERCEPTIVE ORTHODONTIC TREATMENT	\$199
08460	CLASS I MALOCCLUSION - TRANSITIONAL DENTITION	\$349
08461	<i>CLASS I MALOCCLUSION, 13-24 MONTHS</i>	\$698
08462	<i>CLASS I MALOCCLUSION, 25 OR MORE MONTHS</i>	\$922
08470	CLASS II MALOCCLUSION - TRANSITIONAL DENTITION	\$498
08471	<i>CLASS II MALOCCLUSION, 13-24 MONTHS</i>	\$798
08472	<i>CLASS II MALOCCLUSION, 25 OR MORE MONTHS</i>	\$997
08480	CLASS III MALOCCLUSION - TRANSITIONAL DENTITION	\$548
08481	<i>CLASS III MALOCCLUSION, 13-24 MONTHS</i>	\$847
08482	<i>CLASS III MALOCCLUSION, 25 OR MORE MONTHS</i>	\$1,047
08560	CLASS I MALOCCLUSION - PERMANENT DENTITION	\$997
08561	<i>CLASS I MALOCCLUSION, 13-24 MONTHS</i>	\$1,944
08562	<i>CLASS I MALOCCLUSION, 25 OR MORE MONTHS</i>	\$2,343
08570	CLASS II MALOCCLUSION - PERMANENT DENTITION	\$1,097
08571	<i>CLASS II MALOCCLUSION, 13-24 MONTHS</i>	\$1,994
08572	<i>CLASS II MALOCCLUSION, 25 OR MORE MONTHS</i>	\$2,442

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CDT CODE =====	D E S C R I P T I O N =====	MAXIMUM PAYMENT =====
08580	CLASS III MALOCCLUSION - PERMANENT DENTITION	\$1,097
<i>08581</i>	<i>CLASS III MALOCCLUSION, 13-24 MONTHS</i>	\$1,994
<i>08582</i>	<i>CLASS III MALOCCLUSION, 25 OR MORE MONTHS</i>	\$2,442
08650	TREATMENT FOR THE ATYPICAL OR EXTENDED SKELETAL CASE	BR
08750	POST-TREATMENT STABILIZATION	\$1,994
08999	UNSPECIFIED ORTHODONTIC PROCEDURE, BY REPORT	BR
09110	PALLIATIVE (EMERGENCY) TREATMENT OF DENTAL PAIN - MINOR PROCEDURES	\$50
09210	LOCAL ANESTHESIA NOT IN CONJUNCTION WITH OPERATIVE OR SURGICAL PROCEDURES	\$12
09211	REGIONAL BLOCK ANESTHESIA	\$10
09212	TRIGEMINAL DIVISION BLOCK ANESTHESIA	\$12
09215	LOCAL ANESTHESIA	\$7
09220	GENERAL ANESTHESIA - FIRST 30 MINUTES	\$137
09221	GENERAL ANESTHESIA - EACH ADDITIONAL 15 MINUTES	\$50
09230	ANALGESIA	\$22
09240	INTRAVENOUS SEDATION	\$50
09310	CONSULTATION (DIAGNOSTIC SERVICE PROVIDED BY DENTIST OR PHYSICIAN OTHER THAN PRACTITIONER PROVIDING TREATMENT)	\$75
09410	HOUSE CALL	\$75
09420	HOSPITAL CALL	\$75
09430	OFFICE VISIT FOR OBSERVATION (DURING REGULARLY SCHEDULED HOURS) - NO OTHER SERVICE PERFORMED	\$30
09440	OFFICE VISIT - AFTER REGULARLY SCHEDULED HOURS	\$75
09610	THERAPEUTIC DRUG INJECTION, BY REPORT	\$25
09630	OTHER DRUGS AND/OR MEDICAMENTS, BY REPORT	BR
<i>09907</i>	<i>EMERGENCY DRUG INJECTION</i>	BR
09910	APPLICATION OF DESENSITIZING MEDICAMENTS	\$25
09920	BEHAVIOR MANAGEMENT, BY REPORT	BR
09930	TREATMENT OF COMPLICATIONS (POST-SURGICAL) - UNUSUAL CIRCUMSTANCES, BY REPORT	BR
09940	OCCLUSAL GUARDS, BY REPORT	BR
09941	FABRICATION OF ATHLETIC MOUTHGUARDS	\$100
09950	OCCLUSION ANALYSIS - MOUNTED CASE	\$204
09951	OCCLUSAL ADJUSTMENT - LIMITED	\$125
09952	OCCLUSAL ADJUSTMENT - COMPLETE	\$199
09999	UNSPECIFIED ADJUNCTIVE PROCEDURE, BY REPORT	BR

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Dental Care Services

Alvin J. Walsh
Director

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Alcoholic Beverage Control

Caterer's Permit (LAC 55:VII.325)

The Department of Public Safety and Corrections, Office of Alcoholic Beverage Control finds that unregulated caterer's activities constitute an imminent peril to the public welfare because of the irrevocable loss of income and commerce to the state. Promulgation of an emergency rule allows expedient enforcement of statutory enforcement and regulatory provisions of Title 26 of the Louisiana Revised Statutes.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 26:793, which authorizes the commissioner to establish special designations on the regular Class A permits for persons who wish to service special events as caterers and serve at locations other than their licensed premises, the commissioner hereby finds that an imminent peril to the public welfare exists, due to the loss of revenue, and accordingly adopts an emergency rule, effective March 10, 1993. This emergency rule shall remain in effect for 120 days or until it takes effect through the normal promulgation process, whichever is shortest.

Title 55

PUBLIC SAFETY

Part VII. Alcoholic Beverage Control

Chapter 3. Liquor Credit

§325. Caterer's Permits

A. The Office of Alcoholic Beverage Control may issue special caterer's permits to the holders of Class A liquor and beer retail permits to allow licensed dealers to sell and serve alcoholic beverages, on a temporary basis, limited to three days in duration, at events other than upon the premises for which the holder's regular permit is issued; but only in an area which the sale of beverages has been authorized by local option election and with written permission from the local governing authority.

1. In order to qualify for a caterer's permit, an applicant must derive 60 percent of its gross annual revenue from the sale of food or food-related product. The permit is limited in application to off-premise events of limited duration and only when providing food service amount to at least 25 percent of the gross revenue to the caterer for the event. All alcoholic beverages must be dispensed by the caterer or his employee, agent or servant.

2. The caterer's permit may be issued in conjunction with either a Class A beer or liquor permit, or both, and shall expire at the same time as the regular Class A permit. If the regular Class A permit ceases to be valid for cause, the caterer's permit ceases to be valid. Cost of the caterer's permit is \$200 per year or portion thereof; costs shall not be prorated.

3. An application for a caterer's permit shall be made on forms prescribed by the commissioner. Special designation on the duplicate Class A permits of applicants for caterer's permit shall be *caterer*.

B. A caterer must display the caterer permit on the premises of the event being catered.

C. Holders of a caterer's permit must specifically comply with provisions of LSA-R.S. 26:90, 26:91, 26:286 and 26:287 in addition to other provisions not exempted; however, exceptions are: when the holder of caterer's permit calls upon an industry member to serve an event; at events other than upon the premises for which the holder's regular permit is issued, the industry member must charge the holder of the caterer's permit for all equipment used and services rendered in an amount at least equal to that listed as follows:

1. labor: at a rate equal to that required as a minimum wage under the Federal Wage and Hour Act;
2. self contained electric units in which the beer container is refrigerated with the unit: \$15 per day;
3. electric unit in which the beer container sits outside the cooling unit: \$15 per day;
4. picnic pumps: \$1 per day;
5. tubs: \$1 per day;
6. cold plates: \$2 per day;
7. trucks designed to handle packaged beer without refrigeration: \$20 per day;
8. refrigerated trucks designed to handle packaged or draught beer: \$30 per day;
9. mobile refrigerated draught units such as trailers or other vehicles: \$30 per day;
10. cups, ice, additional CO₂ gas and similar supplies and equipment: cost to the industry member.

D. Any violation of rules or causes enumerated in Title 26 of the Louisiana Revised Statutes shall subject the retailer to revocation, suspension or withholding of his alcoholic beverage permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 19:

Raymond Holloway
Commissioner

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of the State Police Riverboat Gaming Division

Riverboat Gaming License, Permit, Compliance, Inspections
and Investigations (LAC 42:XIII.Chapters 17-23)

In accordance with R.S. 49:953(B), the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to riverboat gaming. This emergency rule becomes effective April 5, and hereby repeals and replaces the prior emergency rule made effective January 25, 1993 and published

in the February, 1993 *Louisiana Register*, pages 154-165. This emergency rule shall remain in effect for 120 days or until final rule promulgation takes effect, whichever is shortest.

The state of Louisiana is experiencing a serious projected budgetary deficit and is in need of generating new revenue and enlarging its economic development base. The Louisiana Riverboat Economic Development and Gaming Control Act was passed in an effort to realize a new source of revenue without raising taxes on the general citizenry of Louisiana.

Currently, millions of dollars are leaving the state of Louisiana and are being spent on the Mississippi gulf coast in that state's riverboat gaming casinos. Additional riverboat casinos are beginning operations along the Mississippi gulf coast at the rate of one per month. A total of approximately fifteen riverboat casinos are currently planned for the Mississippi gulf coast approximately 60 miles from New Orleans. As a result, the state of Mississippi is experiencing tremendous economic growth and is collecting gaming revenues and fees that should be staying in Louisiana. In addition, thousands of out-of-state tourists are opting to make areas outside of Louisiana their travel destination because of the availability of legalized gaming in those jurisdictions.

The division further determines that unless immediate rule action is taken by the division, those companies which are presently willing to invest millions of dollars in Louisiana and provide thousands of jobs to Louisiana residents will decide to invest their resources in other jurisdictions which presently offer riverboat gaming or will have authorized riverboat gaming in the near future.

The division also finds that many state programs which would be or could be providing critical medical, health, social, and educational services to the citizens of Louisiana could be funded by revenues received by the state from implementation of riverboat gaming operations. Until riverboats are licensed and gaming activity has commenced, no revenue from this source can be realized.

Any unnecessary delay in the promulgation of Riverboat Gaming Division rules will seriously delay the collection of application fees for licenses, permits and certificates of suitability approval, thereby adversely impacting the division's ability to meet and deliberate the approval of the forthcoming rules for application and licensing of riverboat operations.

As a result of the above findings, the Riverboat Gaming Division hereby adopts the following emergency rule:

Title 42

LOUISIANA GAMING

PART XIII. RIVERBOAT GAMING

Subpart 2. State Police Riverboat Gaming Division

Chapter 17. General Provisions

§1701. Definitions

As used in the regulations, the following terms have the meanings described below:

Act—the Louisiana Riverboat Economic Development and Gaming Control Act.

Administrative Approval—the authority conferred upon the division by any regulation or by a condition imposed on a license or permit to grant or deny, in their individual

discretion, a request for approval of a proposed action or transaction.

Administrative Decision—the final action, decision, order or disposition by the division directed toward a request for administrative approval.

Agent—any commissioned Louisiana state police trooper or designated employee of the Louisiana State Police, Riverboat Gaming Enforcement Division.

Applicant—a person who has submitted an application to the division seeking a license or permit, or the renewal thereof.

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.

Application—the forms and schedules prescribed by the division upon which an applicant seeks a license or permit or the renewal thereof. Application also includes information, disclosure statements, and financial statements submitted by an applicant as part of an application.

Architectural Plans and Specifications or Architectural Plans or Plans or Specifications—all 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 device 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 commission or division incidental to the certification of documents.

Certified Electronic Technician—qualified service personnel trained by a manufacturer, distributor, 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.

Chairman—the chairman of the Louisiana Riverboat Gaming Commission.

Chip—a non-metal or partly metal representative of value, redeemable for cash, and issued and sold by a licensee for use at the licensee's gaming establishment.

Commission—the Louisiana Riverboat Gaming Commission.

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 in 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—that portion of a riverboat in which gaming activities may be conducted. 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.

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 R.S. 4:503 with amendment upon which gaming activities may be conducted.

Disciplinary Action—any action undertaken by the division which includes the assessment of a fine, fee, or an action which condition, restrict, or otherwise limit a license or permit issued by the division.

Distributor—any person that sells, leases, markets, offers or otherwise distributes associated equipment in this state for use by licensees.

Division—the Riverboat Gaming Enforcement Division of the Gaming Enforcement Section of the Office of State Police, Department of Public Safety and Corrections.

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. The term also means 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, 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 license or licensee whereby a person directly 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.

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.

Employee Permit or Gaming Employee Permit—the permit of a person employed in the operation or supervision of a gaming activity on a riverboat and includes pit bosses, floormen, boxmen, dealers or croupiers, machine mechanics, designated gaming area security employees, count room personnel, cage personnel, slot machine and slot booth personnel, credit and collection personnel, casino surveillance personnel, and supervisory employees empowered to make discretionary decisions that regulate gaming activities, including shift bosses, credit executives, casino cashier supervisors, gaming managers and assistant managers, and any individual, other than nongaming equipment maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries, whose employment duties require or authorize access to designated gaming areas.

Entertainment Fee—a fee assessed by the state for each passenger boarding a riverboat.

Excluded List—a list or lists which contain identities of persons who are to be excluded or ejected 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.

Excursion—that period of time when a riverboat is away from its approved berth or is embarking or disembarking passengers at its approved berth.

FF&E (Furniture, Fixtures and Equipment)—any part of a riverboat that may be installed or put into use as purchased from a manufacturer, wholesaler, or retailer, 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 Records—those records which relate to the finances, earnings, or revenue of an applicant, licensee, registered company, or person to whom any approval has been granted.

Fiscal Year—a period beginning July 1 and ending June 30 the following year.

Game—any banking or percentage game which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value. *Game* does not include lottery, bingo, pull tabs, raffles, electronic video bingo, cable television bingo, dog race wagering, or any wagering on any type of sports event, including, but not limited to, football, basketball, baseball,

hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event. *Game* shall also include racehorse wagering.

Gaming Activities or *Gaming Operations*—the use, operation, or conducting of any game or gaming device upon a riverboat.

Gaming Device or *Gaming Equipment*—any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine, including an electronic gaming device, used directly or indirectly in connection with gaming or any game, which affects the result of a wager by determining wins or losses.

Game Outcome—the final result of the wager.

Gaming Operator or *Licensee*—any person holding or applying for a gaming license to conduct gaming activities.

Hearing—a proceeding conducted by or at the direction of the division, and includes formal proceedings conducted by a hearing officer at the request of the division to determine issues of fact or law and take such other action as authorized and provided in the act or regulations.

Hearing Officer—an agent of the division, appointed by the supervisor to conduct a hearing, who has the following qualifications:

- a. must be at least 21 years of age;
- b. must have a working knowledge of the act and the regulations; and
- c. such other qualifications as required by the division.

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.

Investigation—a fact-finding process conducted by the division.

Key Gaming Employee—any individual who is employed in a managerial or supervisory capacity, or whose decisions and activities have a significant input on the day-to-day operation of a gaming establishment.

License or *Gaming License*—a license or authorization to conduct gaming activities on a riverboat issued pursuant to the act.

Manufacturer—is any person that manufactures, assembles, produces, or programs any gaming device for use or play in this state.

Material—that which is important; necessary, or relative to the matter at hand and is so substantial as to influence consideration.

Meeting—a gathering of the commission pursuant to a valid call at which a quorum is present for the purpose of deliberating toward a decision or making a decision. The term includes, but is not limited to the consideration of appeals taken from decisions of the division concerning license or permit applications, transfer of interest, issues involving matters of taxation, fees, charges and/or penalties, disciplinary proceedings, and exclusion list proceedings.

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.

New Construction—a riverboat upon which construction is commenced on or after January 1, 1992.

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.

Passenger—a natural person who is present on a riverboat but has no part in the vessel's operation.

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.

Permit—any permit or authorization or application therefor issued pursuant to the act other than a gaming license.

Permittee—any employee, agent, person, or entity who is issued or applying for a permit pursuant to the act.

Person—an individual, partnership, corporation, unincorporated association, or other legal entity.

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, tapes, disks, 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.

Statements On Auditing Standards—the auditing standards and procedures published by the American Institute of Certified Public Accountants.

Supervisor—the individual in charge of the division.

Supplier—any person that sells, leases, markets, offers, or otherwise distributes any gaming device for use or play in this state or sells, leases, or otherwise distributes any gaming device from a location within this state.

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 a winnings to patrons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

Chapter 19. Administrative Procedures and Authority

§1901. Issuance and Construction of Regulations and Administrative Matters

A. Division Rules and Regulations; Promulgation; Commission Approval

1. The division shall submit any proposed regulation to the commission prior to promulgation of the regulation.

2. The commission may reject any regulation submitted by the division. Upon rejection of a regulation by the commission, said regulation shall not be promulgated by the division.

3. Upon commission acceptance of a regulation submitted by the division, the regulation may then be promulgated in accordance with the Administrative Procedure Act.

B. Construction of Regulations; Severability

Nothing contained in these regulations shall be so construed as to conflict with any provision of the act or any other applicable statute. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

C. Definitions, Captions, Pronouns, and Gender

The terms defined in the act have the same meaning in the regulations as they have in the act, unless the context otherwise requires. Captions appearing at the beginning of regulations are descriptive only, are for convenient reference to the regulations and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or the use of neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice-versa, in any place or places in the regulations where the context requires such substitution.

D. Establishment of Committees

The supervisor may at his discretion appoint committees to study and report to the division on any matter appropriate to the division's administration of the act and the regulations.

E. Review of Administrative Decisions

Any licensee or permittee adversely affected by an administrative decision of the division may submit the matter for review to the commission or to the 19th Judicial District Court, as provided in the act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

Chapter 21. Licenses and Permits

§2101. General Authority of the Division

The division shall have the authority to call forth any person who, in the division's opinion, exercises influence over a licensee, permittee or the riverboat gaming industry, and such person shall be subject to all suitability requirements. In the event a person is required by the division to obtain a license, permit or certificate of suitability and such license, permit or certificate is denied, then the licensee and/or permittee shall cease connection with such person(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2103. Applications in General

Any license, permit, or certificate of suitability issued by the division is deemed to be a revocable privilege, and no person holding such a license, permit or certificate is deemed to have acquired any vested rights therein. An applicant for a riverboat gaming license, permit or certificate of suitability authorized by the act and/or these regulations, is seeking the granting of a privilege, and the burden of proving his qualification to receive the license, permit or certificate is at all times on the applicant. An applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the division. The filing of an application under the act and the regulations constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with the riverboat gaming industry, and by filing an application, the applicant specifically consents to the making of such a decision by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2105. Investigations

The division shall investigate all applications for a license, permit, certificate of suitability or other matters requiring division approval. The division may investigate, without limitation, the background of the applicant, the suitability of the applicant, the suitability of the applicant's finances, the

applicant's business probity, the suitability of the proposed premises for gaming, and the proposed establishment's compliance with all applicable federal, state, and local laws and regulations.

HISTORICAL NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2107. Applicants in General; Restrictions

The securing of a license or permit required under the act is a prerequisite for conducting, operating, or performing any activity regulated by the act.

1. Except as provided herein, if the applicant is a general partnership or joint venture, each individual partner and joint venturer must file a complete application.

2. Each applicant must file a complete application. If the applicant is a corporation, each officer and director of the corporation must file a personal history form. Any shareholder with five percent or more of the corporation must file a completed personal history form, and if such shareholder is another corporation or partnership, each corporate officer and director who has an interest in gaming or each partner holding five percent or more shares must file a personal history form.

3. If the applicant is a limited partnership, the general partner and each limited partner having five percent or more interest must file a complete application.

4. If the applicant is a limited liability company, pursuant to Louisiana R.S. 12:1301 et seq., each officer and director of the company must file a personal history form. Any shareholder of five percent or more of the company must file a personal history form, and if such shareholder is another corporation or partnership, each corporate officer and director who has an involvement in gaming or each partner holding five percent or more shares must file a personal history form.

5. If the applicant is a registered limited liability partnership, pursuant to Louisiana R.S. 9:3431 et seq., the general partner and each limited partner having five percent or more interest must file a personal history form.

6. A personal history form must be filed by any person who is shown by a preponderance of evidence to:

a. have influence over the operation of gaming on a riverboat or riverboats;

b. receive any share or portion of the money or property won by the operator of gaming on a riverboat; or

c. receive compensation or remuneration in excess of \$50,000 per annum (as an employee of a licensee or in exchange for any service or thing) provided to the licensee on a riverboat; or

d. be a lessor or provider of goods or services; or

e. have any contractual agreement with a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2109. Management Agreement

The riverboat gaming license shall be in the name of the gaming operator. Said gaming operator, vessel owner and/or

operator, owner and/or operator of onshore facilities, officer or director, or any person having a five percent or more interest in such entity shall be required to obtain a suitability certificate. All costs associated with conducting a background for suitability of the vessel owner, owner and/or operator of onshore facilities, officer or director, or any person having a five percent or more interest in such entity, shall be borne by said individuals, up to a maximum of \$10,000. The riverboat owner and/or operator shall submit all plans and specifications of the vessel and his qualifications, including a statement of maritime experience as a riverboat operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2111. License or Permit Disqualification Criteria

The division shall not award a license or permit to any person who is disqualified on the basis of any of the following criteria:

1. failure of the applicant to prove by clear and convincing evidence that he is qualified in accordance with the provisions of the act.

2. failure of the applicant to prove by clear and convincing evidence that he is qualified in accordance with the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2113. Gaming Operator License and Permits; Suitability

A. No person shall be eligible to receive a license to conduct gaming operations on a riverboat or any license or permit issued pursuant to the provisions of the act or these regulations unless the division finds that:

1. the applicant is a person of good character, honesty, and integrity.

2. the applicant is a person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

B. In addition to meeting the above requirement's, no person shall be issued a license to conduct gaming operations unless the division finds that:

1. the applicant is capable of conducting gaming operations, which means that the applicant can demonstrate the capability, either through training, education, business experience, or a combination of the above to operate a gaming casino.

2. the proposed financing of the riverboat and the gaming operations is adequate for the nature of the proposed operation and from a source suitable and acceptable to the division.

3. the applicant has demonstrated a proven ability to operate a vessel of comparable size and capacity and of comparable complexity to a riverboat so as to ensure the

safety of its passengers as set forth in the commission regulations.

4. the applicant has submitted a detailed plan of design of the riverboat.

5. the applicant has shown adequate financial ability to construct and maintain a riverboat.

6. the applicant has designated the docking facilities to be used by the riverboat.

7. the applicant has a good-faith plan to recruit, train, and upgrade minorities in all employment classifications.

8. the owners plan to provide the maximum practical opportunities for participation by the broadest number of minority-owned businesses.

9. applicant is a Louisiana corporation and licensed to conduct business in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2115. Tax Clearances

No person will be employed by the licensee who is not current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and items for which the department of revenue and taxation or the Internal Revenue Service has accepted a payment schedule of back taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2117. Certification Required

Before any riverboat may be operated under the authority of the act, the applicant or, if the application has been approved, the licensed operator, must provide to the division evidence that the riverboat has been certified by the United States Coast Guard for carriage of passengers on navigable rivers, lakes, and bayous as provided by the act and has been authorized by the United States Coast Guard to carry a minimum total of 600 passengers and crew. In addition, the applicant or operator must document compliance with all applicable federal, state and local laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2119. Single Operator's License

One license to operate riverboat gaming will be issued for each riverboat with a designated gaming area, even though multiple individuals may file or be required to file applications related thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2121. Form of Application

Applications must be filed by way of forms prescribed by and obtained from the division. Such forms shall include, but not be limited to:

1. a history record regarding the background for the ten-year period preceding submission of the application, unless otherwise extended by the supervisor;

2. a financial statement;

3. a statement disclosing the nature, source, and amount of any financing, the proposed uses of all available funds, the amount of funds available after opening for the actual operation of the riverboat, and economic projections for the first three years of operation of the riverboat;

4. an affidavit of full disclosure, signed by the applicant;

5. an authorization to release information to the division and commission, signed by the applicant;

6. a standard bank confirmation form, signed by the applicant;

7. a release of all claims, signed by the applicant;

8. in addition, the division may require an applicant to provide such other information and details as it needs to discharge its duties properly. Failure to supply any information within the prescribed time periods, after receiving the division's or the commission's request, may constitute grounds for delaying consideration of the application and/or constitutes grounds for denial of the application; and

9. security statement explaining the type of security procedures, practices, and personnel to be utilized by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2123. Additional Application Information Required

Every operator's application shall contain the following additional information including but not limited to:

1. two copies of detailed plans of design of the riverboat, including a layout of each deck stating the projected use of each area;

2. a statement that the vessel is or shall be certified by the United States Coast Guard;

3. the proposed route to be followed;

4. the total estimated cost of construction of the riverboat and shore and dock facilities, proposed by this application, distinguishing between known costs and projections, and shall separately identify:

a. facility design expense;

b. land acquisition or site lease costs;

c. site preparation costs;

d. construction cost or renovation cost;

e. equipment acquisition cost;

f. cost of interim financing;

g. organization, administrative and legal expenses;

h. projected permanent financing costs.

5. the construction schedule proposed for completion of the riverboat; including therein a projected date of completion. Indicate whether the construction contract includes a performance bond;

6. explanation and identification of the source or sources of funds for the construction of the riverboat;

7. description of the casino size and approximate configuration of slot machines, video games of chance and table games;

8. the adequacy of security enforcement on the riverboat;

9. the type of slot machines and video games of chance to be used; also, indicate the proposed distributors and manufacturers of this equipment;

10. riverboat days and periods of time that the gaming area will be in operation; and

11. the proposed management of the facility, management personnel by function and organizational chart by position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2125. Access to Applicants Premises and Records

Each applicant shall upon request immediately make available for inspection by the division or agents of the division, all papers, books and records used, or to be used, in the licensed or permitted operation. The division, or any agent of the division, or a commissioner, or agent of the commission shall be given immediate access to any portion of the premises of any riverboat or premises of a manufacturer or supplier for the purpose of inspecting or examining any records or documents required to be kept under the provisions of the act and the regulations and any gaming device or equipment or the conduct of any gaming activity. Access to the areas and records that may be inspected or examined by the division, division agents, commissioners or their agents must be granted to any such individual who displays division or commission credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2127. Information Constituting Grounds for Delay or Denial of Application; Amendments

A. It is grounds for denial of the application or disciplinary action for any person to make any untrue statement of material fact in any application, or in any statement or report filed with the division or commission, or willfully to omit in any such application, statement or report, any material fact which is required to be stated therein, or which is necessary to make the facts stated not misleading.

B. All information included in an application must be true and complete to the best of the applicant's knowledge, and in the opinion of the division as of the date submitted. An applicant shall immediately supply by amendment any new information based on facts occurring after the original application.

C. An application may be amended upon approval of the supervisor. Any amendment to an application shall have the effect of establishing the date of such amendment as the filing date of the application with respect to the time requirements for action on the application. Request for amendment to an application must be in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2129. Other Considerations for Licensing

Sections 2129 through 2137 set forth criteria which the division may consider when deciding whether to issue a license to conduct riverboat gaming. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of an application for a license. The following criteria are not listed in order of priority.

1. Proper financing. The division may consider whether the proposed riverboat is properly financed.

2. Adequate security. The division may consider whether the proposed riverboat is planned in a manner which provides adequate security for all aspects of its operation and for the people working, visiting, or traveling on the riverboat.

3. Character and reputation. The division may consider the character and reputation of all persons identified with the ownership and operation of the riverboat, and their capability to comply with the regulations of the division, regulations of the commission, and the provisions of the act.

4. Miscellaneous. The division may consider such other factors as may arise in the circumstances presented by a particular application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2131. Timetable for Financing and Construction

In conjunction with an affiant's submission of its completed application, an applicant shall submit a timetable for financing arrangements, commencement and completion of construction activities and set forth the date upon which gaming activities will begin. This timetable will be subject to approval by the division, and monitored for compliance by the supervisor. It shall be required that within 24 months from the date of the granting of a license, or the commission's certificate of approval, whichever is later, that a riverboat commences gaming operations. Upon the recommendation of the division, an extension of time may be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2133. Filing of Application

Each application, including renewal applications, must be filed within the time periods, if any, as prescribed in the act. An application is deemed filed with the division when the application form has been received by the division, as evidenced by a signed receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2135. Completeness of Application

Upon receipt of an application for a riverboat gaming license, the division shall, within seven days, make an initial determination as to the reasonable completeness of the application and shall notify the applicant in writing within said seven days of the determination. If the initial examination determines the application to be incomplete, the notice to the applicant shall set forth in summary terms the reasons thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2137. Fingerprinting

No application, including a renewal application, is complete unless the applicant has submitted to fingerprinting by or at the direction of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2139. Application Filing Fees

All monies deposited by an applicant to defray the costs associated with the applicant investigation conducted by the division must be deposited into a designated state treasury fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2141. Renewal Applications

Applications for renewal of a riverboat gaming license or any permit authorized by the act must be made by way of forms prescribed by the division. Said forms shall consist of a statement made under oath of any and all changes in the history and financial information provided in the previous application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2143. Conduct of Investigation; Time Requirements

All investigations conducted by the division in connection with an application must be conducted in accordance with the act.

1. The investigation must be completed and placed upon an agenda within 90 days after the division has notified the applicant that said investigation is complete.

2. If a renewal application has been filed with the division by a person who is qualified to file a renewal application, the division may investigate the applicant commencing with the date of the issuance of the existing license. Such investigation shall be completed within 30 days. The supervisor may extend the period if circumstances require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public

Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2145. Notice of Division Hearing to Consider Application

Hearings by the division to consider applications will be noticed and conducted in accordance with the provisions of the act and the regulations of the division.

1. The division will notify the applicant in writing of the date, time, and place of the hearing to consider his application at least 20 days prior to said hearing.

2. The division may summon any person named in an application to appear and testify before the division, and all such testimony must be under oath and may embrace any matter that the supervisor deems relevant to the application. Failure of applicant to appear and testify fully at the time and place designated, unless excused by the supervisor, is grounds for denial of the application. Any request by applicant for excuse of appearance must be in writing and filed with the supervisor at least five days prior to the scheduled appearance.

3. The hearing by the division to consider the application shall be conducted by the supervisor or by a representative designated by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2147. Issuance of Decision

The division must issue its decision concerning the application on the record at the time of the public hearing, or if unable to do so, in writing within 10 days after the hearing and include therein a statement of the reasons for the decision. The division must provide a copy of its decision to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2149. Appeal of Division Decision to Commission

Any person whose application for license or permit has been denied by the division or any person adversely affected by an action, order, or decision of the division may appeal the action, order, or decision of the division to the commission by filing a notice of appeal with the commission within seven days of certified mailing of notice of the action, order, or decision by the division. The division, upon notice of appeal to the commission, shall transmit to the commission the record of proceedings before the division at which the action, order, or decision appealed from was taken. The person appealing an action, order, or decision of the division shall remit to the division the cost of preparing the record of the proceedings before the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2151. Waiver of Privilege

An applicant may claim any privilege afforded by the Constitution of the United States or of the state of Louisiana

in refusing to answer questions by the supervisor and commission, but a claim of privilege with respect to any testimony or evidence pertaining to an application may constitute sufficient grounds for denial of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2153. Multiple Licensing Criteria

A. A person licensed as a riverboat gaming operator may apply for additional licenses. In all such cases, the division shall consider whether such multiple approval is in the best interest of the state of Louisiana, having due regard for the state's policy concerning economic development and gaming. In making this determination, the division may consider any index or criteria deemed by the supervisor to be relevant to the effect of multiple licenses upon the public health, safety, morals, good order and general welfare of the public of the state of Louisiana, including but not limited to the following factors:

1. the quality of the applicant's performance under the act and regulations;
2. the adequacy of resources available to the applicant to undertake additional operations, including but not limited to manpower, managerial and financial resources;
3. whether additional operations would jeopardize the stability of the existing operation; and
4. whether additional operations would be inimical to the economic development of the state.

B. If a licensee is issued more than one license by the division and has a license suspended or revoked, the division may suspend or revoke all licenses issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2155. Withdrawal of Application

A request for withdrawal of an application may be made to the supervisor at any time prior to issuance by the division of its determination with respect to the application. The division may deny or grant the request with or without prejudice. If a request for withdrawal is granted with prejudice, the applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such withdrawal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2157. Application After Denial

Any person whose application for license or permit has been denied by the division, and who has not successfully appealed the decision of denial to the commission, is not eligible to reapply for any approval authorized by the act for a period of five years unless the supervisor rules that the denial is without prejudice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2159. Gaming Employee Permits Required

A. No person may be employed as a gaming employee unless such person is the holder of a valid gaming employee permit issued by the division.

B. Every licensee shall, before employing any person in connection with the licensed gaming operation, ascertain that such person holds a valid gaming employee permit issued in accordance with this regulation, and shall note his employment records to reflect such fact. The licensee shall secure an application and fingerprint cards from the division for each employee.

C. Every gaming employee shall keep his gaming employee permit on his person and displayed in accordance with §2165 at all times when actively engaged in gaming operations, or on the licensed premises.

D. The division may investigate the applicant and may either grant or deny the gaming employee permit.

E. The division may issue a temporary permit subject to future revocation to each employee.

F. A gaming employee permit is not transferable and upon resignation or termination of employment must be returned by the employee to the holder of an operator's license or to the division. If returned to the holder of an operator's license, the holder must then return the badge to the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2161. Application for Gaming Employee Permit; Procedure

A. An applicant for a gaming employee permit shall submit to fingerprinting at the direction of the division and supply two passport size photographs. The photographs must be satisfactory to the division and must have been taken not earlier than three months before the date of filing the application. The applicant shall also provide any other information requested by the division.

B. An applicant for a gaming employee permit shall pay the application fee established by the act or by these rules.

C. Gaming management persons shall be subject to a fee of \$100 as provided in the act. Those persons shall include supervisory employees empowered to make discretionary decisions that regulate gaming activities including: audit manager, casino manager, chief of security, controller, EDP manager, and slot department manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2163. Withdrawal of Temporary Gaming Employee Permit

A. The licensee shall withdraw an applicant's temporary

gaming employee permit badge upon determining that the applicant's permit has been denied by the division.

B. If an applicant's temporary gaming employee permit is withdrawn, the applicant is not permitted to work for the riverboat gaming operation until and unless the division issues a permit to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2165. Display of Gaming Employee Permit

A. A gaming employee permit as required by these rules shall be worn by all employees during work hours. The gaming employee permit shall be clearly displayed.

B. A fee of \$15 shall be paid to the division for any necessary replacement(s) or modifications of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2167. Procedure for Hearing after Denial by the Division

A. If the division denies an application for a permit and the applicant requests a hearing pursuant to the act, the supervisor shall schedule a hearing as soon as practicable after receipt of the request.

B. At the hearing, the supervisor shall present any evidence supporting his reasons for denial and the applicant shall then present any evidence controverting the division's reasons. The burden of proof shall be upon the prospective employee in all such hearings.

C. Each party may cross-examine all witnesses and may subpoena witnesses to testify or produce evidence at the hearing. The hearing officer shall issue subpoenas upon the request of a party, but may limit or quash any subpoena issued for good cause.

D. No discovery shall be permitted except upon a finding of the supervisor of good cause justifying the discovery sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, LR 19:

§2169. Fees for Issuance of Licenses and Permits

As prescribed pursuant to the act, R.S. 4:550 the scheduled fees for licenses and permits shall include:

1. The annual fees for gaming employee, manufacturer, supplier, and other permits issued under the provisions of this Chapter shall be as follows:

a. manufacturer of slot machines	\$5,000
b. manufacturer of gaming devices or equipment, or equipment other than slot machines	\$2,500
c. supplier of gaming devices or equipment	\$1,500
d. supplier of goods or services other than gaming devices or equipment	\$ 250
e. gaming employee or other permit	\$ 100
f. permit to conduct racehorse wagering	\$1,000

2. The license fee to conduct gaming activities on a riverboat shall be the total of the following:

a. \$50,000 for each riverboat for the first year of operation which commences with approval of license and \$100,000 per year per riverboat thereafter.

b. an amount equal to 3 1/2 percent of net gaming proceeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

Chapter 23. Compliance, Inspections and Investigations

§2301. Applicability and Resources

This regulation is applicable to inspections and investigations relative to compliance with the regulations and the act. The supervisor is empowered to employ such personnel as may be necessary for such inspections and investigations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2303. Inspections and Observations

The division is empowered to make periodic inspections of premises where gaming is conducted or where gaming will be conducted, and where gaming equipment or gaming devices are manufactured, sold or distributed, during construction and thereafter. The division shall further observe gaming activities and operations and inspect gaming equipment and supplies upon and destined for riverboats to ensure compliance with the act and regulations. Such inspections and observations may or may not be made known to the applicant, licensee or permittee. All requests for access to premises and production of records and documents in connection with any inspection must be granted in accordance with the provisions of the act and division regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2305. Inspections During Construction

The supervisor may designate one or more agents of the division to inspect the construction of the riverboat and dockside facility. Upon presentation of identification, any designated agent of the division may demand and shall be given immediate access to any place where construction of the riverboat or any of its component parts is underway. The supervisor shall certify in writing to the applicant or licensee, as the case may be, that the designated gaming area has been inspected at least twice during construction and that said area:

1. complies with the plans and specifications and any applicable change orders; or

2. does not comply with the plans and specifications or applicable change orders, in which event a description of such non-compliance will be included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public

Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2307. Investigations

All investigations of any alleged violations of the act or regulations by an applicant, licensee or permittee must be conducted by the division and may or may not be made known to the applicant, licensee or permittee before being completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2309. Investigative Powers of the Division

In conducting an investigation, the division is empowered to:

1. inspect and examine all premises wherein gaming activities are conducted, proposed to be conducted or gaming devices are maintained or repaired and where all papers, books, records, documents and electronically stored media are maintained;

2. summarily seize and remove gaming equipment and devices from such premises and impound any equipment for the purpose of examination and inspection;

3. have access to inspect, examine, and photocopy all papers, books, records, documents and information of an applicant, licensee, or permittee pertaining to the licensed or permitted operation or activity, on all premises where such information is maintained;

4. review all papers, books, records, and documents pertaining to the licensed or permitted operation;

5. issue subpoenas, as provided in regulation h, in connection with any investigative hearing conducted by the division;

6. conduct investigative hearings; and

7. issue written interrogatories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2311. Seizure and Removal of Gaming Equipment and Devices

Gaming devices and equipment may be summarily seized by the division. Whenever the division seizes and removes gaming equipment or devices:

1. an inventory of the equipment or devices seized will be made by the division, identifying all such equipment or devices as to make, model, serial number, type, and such other information as may be necessary for authentication and identification;

2. all such equipment or devices will be sealed or by other means made secure from tampering or alteration;

3. the time and place of the seizure will be recorded; and

4. the licensee or permittee will be notified in writing by the division at the time of the seizure, of the fact of the seizure, and of the place where the seized equipment or device is to be impounded. A copy of the inventory of the seized equipment or device will be provided to the licensee or permittee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2315. Seized Equipment and Devices as Evidence

All gaming equipment and gaming devices seized by the division shall be considered evidence, and as such shall be subject to the laws of Louisiana governing chain of custody, preservation and return, except that:

1. any article of property that constitutes a cheating device shall not be returned. All cheating devices shall become the property of the division upon their seizure and may be disposed of by the division, which disposition shall be documented as to date and manner of disposal.

2. the division shall notify by certified mail each known claimant of a cheating device that the claimant has ten (10) days from the date of the notice within which to file a written claim with the division to contest the characterization of the property as a cheating device.

3. failure of a claimant to timely file a claim as provided in subsection (b) above will result in the division's pursuit of the destruction of property.

4. if the property is not characterized as a cheating device, such property shall be returned to the claimant within fifteen (15) days after final determination.

5. items seized for inspection or examination may be returned by the division without a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2317. Subpoenas in Connection with Investigative Hearings

The supervisor has full power and authority to issue subpoenas and compel the attendance of witnesses for investigative hearings at any place within the state, including subpoenas compelling production of documents, and to administer oaths and require testimony under oath. Any such subpoena issued by the supervisor will be served in a manner consistent with the service of process and notices in civil actions. The supervisor may require reasonable fees to be submitted with subpoenas, in order to pay transportation and related expenses that may occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2319. Contempt

For failure or refusal to comply with any subpoena or order issued by the supervisor and duly served, the supervisor may cite the subpoenaed party for contempt and may impose a fine as provided in the laws of the state of Louisiana. Such contempt citations and fines may be appealed to the nineteenth judicial district court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

RULES

RULE

Department of Environmental Quality Office of Air Quality and Radiation Protection Radiation Protection Division

Emissions and Emission Standards (AQ60) (LAC 33:III.919)

(Editor's Note: A portion of the following rules, which appeared on page 184 of the February 20, 1993 Louisiana Register, is being republished to correct typographical errors.)

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§919. Emission Inventory

* * *

B. Types of Inventories

* * *

5. Minimum Data Requirements. ...

d. Process Rate Data ...

* * *

ii. in nonattainment areas, peak ozone season daily process rate. The AIRS facility subsystem Source Classification Code Table prescribes the units to be used with each Source Classification Code for peak ozone season daily process rate reporting. Peak ozone season daily process rate is an average of emissions from a daily operation during the peak ozone season months.

* * *

f. Emissions Information

i. estimated actual VOC and/or NO_x emissions at the segment level, in tons per year for an annual emission rate and pounds per day for a typical ozone season day (defined as the average or typical operating day during the peak ozone season). A segment level is the amount of emissions that are attributed to each Source Classification Code. Actual emission estimates must include upsets, downtime and fugitive emissions, and must follow an "emission estimation method." Emissions will be reported as one number;

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19: (April 1993).

James B. Thompson, III
Assistant Secretary

§2321. Investigative Hearings

Investigative hearings shall be conducted by the division or by a hearing officer appointed by the supervisor, at such times and places, as may be convenient to the division. Investigative hearings may be conducted in private at the discretion of the supervisor or hearing officer. A transcript of the hearing shall be made by a licensed court reporter, and a copy of the transcript shall be provided to the licensee or permittee upon payment of all related transcription fees and photocopying charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

§2323. Interrogatories

All interrogatories propounded by the supervisor must be in writing and must be served in the manner consistent with the service of process in civil actions. The respondent is entitled to 15 days within which to respond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office State Police and Riverboat Gaming Division, LR 19:

Colonel Paul W. Fontenot
Deputy Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Bass, Eagle Lake

The Louisiana Department of Wildlife and Fisheries and the Mississippi Department of Wildlife, Fisheries and Parks initiated a management program on Eagle Lake in Madison Parish in 1992. The first step of the management plan, a controlled drawdown, was successful in producing a large number of fingerling black bass (*Micropterus spp.*). In order to ensure and accelerate the recovery of black bass in Eagle Lake, and, in accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(d), the Administrative Procedure Act, and under the authority of R.S. 56:326.3, the Wildlife and Fisheries Commission does hereby enact the following emergency rule:

It shall be unlawful to take or possess, while on the water or while fishing in the water, black bass less than 14 inches total length on Eagle Lake, located east of the Mississippi River in Madison Parish, Louisiana.

Bert H. Jones
Chairman

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Radiation Protection Division**

Permit Procedures (AQ66) (LAC 33:III.504)

(Editor's Note: Table 2 of the following rule, which appeared on page 183 of the February 20, 1993 Louisiana Register, is being republished to correct typographical errors.)

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

* * *

H. Definitions ...

* * *

Table 2 Major Stationary Source/Major Modification Emission Thresholds			
POLLUTANT	MAJOR STATION-ARY SOURCE threshold values tons/year	MAJOR MODIFICA-TION significant net increase in tons/year	OFFSET RATIO minimum
OZONE			
VOC/NO _x ¹		Trigger values	
Marginal	100	40 (40) ²	1.10 to 1
Moderate	100	40 (40) ²	1.15 to 1
Serious	50	25 ³ (5) ⁴	1.20 to 1
Severe	25	25 ³ (5) ⁴	1.30 to 1
CO			
Moderate	100	100	> 1.00 to 1
Serious	50	50	> 1.00 to 1
SO₂	100	40	> 1.00 to 1
PM₁₀			
Moderate	100	15	> 1.00 to 1
Serious	70	15	> 1.00 to 1
Lead	100	0.6	> 1.00 to 1

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:183 (February 1993), repromulgated LR 19: (April, 1993).

James B. Thompson, III
Assistant Secretary

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

Liability Requirements (HW 31) (LAC 33:V.3715)

(Editor's Note: A portion of the following rules, which appeared on pages 414 through 415 of the April 20, 1992 Louisiana Register, is being republished to correct a typographical error.)

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Hazardous Waste

Chapter 37. Financial Requirements

§3715. Liability Requirements

* * *

F. Financial Test for Liability Coverage

* * *

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the administrative authority:

* * *

c. a special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

i. he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii. in connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:399 (May 1990), LR 18: 414 (April 1992), repromulgated LR 19: (April 1993).

James B. Thompson, III
Assistant Secretary

RULE

Department of Environmental Quality
Office of the Secretary

Permit Processing (OS12) (LAC 33:I.Chapter 15)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2022.B (Act 686, 1990 Regular Session) 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.Chapter 15, (OS12).

These regulations establish procedures for processing and review of permit applications including completeness reviews, final determinations and deadlines. The completeness reviews will be no more than 110 days and the final determinations will be generally no longer than 410 days.

These regulations are effective on April 20, 1993, or upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 15. Permit Review

§1501. Applicability

A. This Chapter applies to permit applications for new facilities and for applications for substantial permit modifications submitted to the department after the rule's effective date (date of publication in the *Louisiana Register*).

B. Nothing in this Chapter shall limit the administrative authority from pursuing enforcement authorized in the Act, this Part, or in Parts III, V, VII, IX, or XI of LAC Title 33.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19: (April 1993).

§1503. Definitions

For all purposes of this regulation, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

Complete—in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information.

Department—Louisiana Department of Environmental Quality.

Extraordinary Public Response—that situation that exists where the quality and/or quantity of comments which are relevant and material to the permit are such as to necessitate additional time for agency review.

Final Decision—a final decision to issue, deny, modify or revoke and reissue, or terminate a permit.

New Facility—a pollution source (including all emission points and units of such source located within a contiguous

area and under common control) or any public or private property where an activity required to be permitted by the department has not yet commenced.

Substantial Permit Modification—changes that substantially alter the permitted facility or its operation as follows:

1. for a hazardous waste permit, any Class 3 modification listed in LAC 33:V.322 or otherwise described in LAC 33:V.321.C.4;

2. for a solid waste permit, any modification listed in LAC 33:VII.517.A.2.a, or otherwise determined by the administrative authority to warrant public notice;

3. for a Louisiana Water Discharge Permit System (LWDPS) permit, any modification not processed as a minor modification under LAC 33:IX.307.D; and

4. for an air quality permit, any modification which results in a significant increase in the amount of any regulated pollutant or results in the significant emission of any air pollutant not previously emitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19: (April 1993).

§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications

A. Completeness Review

1. Within 60 days after submittal of a permit application for new facilities or an application for substantial permit modifications, the department shall perform a completeness review and submit written notification to the applicant that lists the application's specific deficiencies. Permit application forms and checklists of required information in the permit application review process shall be provided to the applicant upon request.

2. The applicant shall respond to the notice of deficiency within 30 days after receipt of the notice of deficiency. This response shall contain all of the information required by the department to proceed with processing the application, unless otherwise provided for under LAC 33:I.1505.E.

3. Within 110 days from the date a permit application is submitted, the department shall:

- a. issue a letter of completeness; or
- b. issue a notice of intent to deny the permit based on an incomplete application.

4. Within 30 days after receipt of a letter of completeness, the applicant shall publish a notice, provided by the department, of the completeness determination in a major local newspaper of general circulation and submit proof of publication to the department.

5. The requirement for publication of notice of completeness may be waived for applications for air quality permits for sources not defined as major in LAC 33:III.504, 509, or 5103.

6. The requirement for publication of notice of completeness may be waived for water quality permits for sources defined as minor by the administrative authority.

B. Technical Review

1. If at any time during the application review process

the application is found to contain technical deficiencies, the department shall provide written notice to the applicant and require a response within a specified time.

2. The applicant shall respond to the notice of deficiency within the time specified in the notice. This response shall be deemed adequate only if it contains all of the information specified in the notice of deficiency and required by the department to complete the technical review of the application.

3. Applications undergoing technical review shall not be subject to rule changes that occur during the technical review unless such changes are made in accordance with R.S. 49:953(B)(1) or are required by federal law or regulation to be incorporated prior to permit issuance. However, such a rule change made prior to the issuance of the permit may constitute grounds for a modification of the final permit.

C. Final Decision

1. The secretary or his designee shall issue a final decision within 410 days from the submission date of the application.

2. The secretary or his designee may extend the deadline for a final decision for up to a total of 45 days for the following purposes:

a. to provide additional time for the applicant to revise or supplement the application to address technical deficiencies in the application;

b. to allow for adjudicatory or judicial proceedings under R.S. 30:2024; or

c. to consider comments received at a public hearing in the case of an extraordinary public response.

D. Exceptions. Notwithstanding any other provisions of this Chapter to the contrary, the following requirements shall pertain to all applications for permits relating to oil and gas wells and to pipelines.

1. Within 14 workdays after submittal of a permit application, the department shall issue notification of a completeness determination to the applicant.

2. If the application is not deemed complete, the department shall notify the applicant in writing and provide a list of the application's specific deficiencies.

3. Within 60 workdays after notification to the applicant of a complete permit application, the secretary or his designee shall issue a final decision to grant or to deny the permit.

4. In the event of a permit denial, the secretary or his designee shall provide written reasons for the decision to all parties.

5. If the secretary or his designee does not grant or deny the application within the time period provided for herein, the applicant may file a rule as provided for in R.S. 49:962.1.

E. Extensions. Any deadline established by this Section may be extended. A request for an extension of any deadline shall be submitted in writing by the permit applicant or by the secretary or designee. The request shall specify the reasons and any special conditions that support a deadline extension. Written responses to all extension requests shall be submitted to the requestor within 10 days of receipt of the request.

F. Withdrawal of Permit Application

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice

of withdrawal is submitted in writing with the appropriate signatory authority, and:

a. the applicant has voluntarily submitted and application for a new facility and such application is not required other than to gain permission to operate; or

b. the applicant has voluntarily submitted an application to modify an existing permit and such permit modification would not be required other than to operate in a different manner.

2. Following withdrawal, any subsequent submission will be considered a new application.

3. Following withdrawal, the requirements of this Chapter would be reinitiated upon the submittal of a new application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19: (April 1993).

James B. Thompson, III
Assistant Secretary

RULE

Office of the Governor Division of Administration Office of Facility Planning and Control

Historic Restoration Prequalification (LAC 34:III.151)

In accordance with R.S. 49:950 et seq. and R.S. 38:2212.4, the following rule governing the prequalification of bidders for historic restoration projects is hereby adopted.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter B. Historic Restoration

§151. Historic Restoration Projects

A. This rule applies to the repair, renovation or reconstruction of any state-owned building that is listed on the National Register of Historic Places or any state-owned building which is eligible to be included on this Register. When required, eligibility shall be determined by the State Office of Historic Preservation. For these projects, Facility Planning and Control may require the designer of the project to assess the structure and proposed scope of work and recommend if it will be in the best interest of the state to prequalify the bidders for the project. The items for consideration in this determination shall include but not be limited to the following:

1. historic significance of the structure;
2. extent of the work to be performed;
3. condition of the structure before renovation;
4. previous renovations;

5. program objectives of the owner and user;
6. effect of law, codes, regulations and ordinances;
7. environmental impact;
8. long and short term economic impact.

B. Based on the results of this determination, the designer shall recommend to Facility Planning and Control whether or not the bidders for the specific project should be prequalified and justify his recommendation when required by Facility Planning and Control.

C. If Facility Planning and Control determines that it is in the best interests of the state to prequalify the bidders it shall instruct the designer of the project to prepare a contractor's qualification statement and make it available to prospective bidders. The designer shall also be instructed to administer the prequalification process including receipt and evaluation of completed qualification forms and recommendations to Facility Planning and Control regarding which contractors are qualified to submit bids for the work. The contractor's qualification statement shall be prepared using AIA Document A305. The requirements of this document shall be supplemented by requirements that will require the bidders to demonstrate actual, verifiable experience with projects of similar type and scope and may require the demonstration of actual, verifiable experience in specific required trades.

D. The advertisement for bids for any project requiring prequalification shall state this requirement and the last date for the submittal of contractor's qualification statements. Any statements received after this date will not be considered.

E. With the approval of Facility Planning and Control the designer shall notify every applicant whether or not he or she has been determined to be qualified and allowed to bid. This notification shall be provided within a time specified in the advertisement for bids.

F. The designer shall be responsible for answering reasonable requests for justification of his or her determinations within a reasonable time and shall provide such a response at least five working days prior to the bid date provided the request for justification is received no later than three working days after the time the prospective bidder has been notified that he or she is not qualified. Unless these time requirements are met the designer shall not be responsible for providing justifications or changes of determination in time to allow prospective bidders to bid. The designer's decisions in these matters shall be final.

G. After the prequalification process is complete only prequalified bidders may submit bids on those designated projects and the contracts on those designated projects shall be awarded to the prequalified bidder submitting the lowest responsible bid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B) and R.S. 38:2212.4.4

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 19: (April 1993).

Roger Magendie
Director

RULE

Office of the Governor Division of Administration State Land Office

Repeal and Repromulgation of State Land Office Rules and Regulations (LAC 43:Parts I, V, and XXVII)

Act 282 of the 1989 Regular Legislative Session transferred the duties of the Register of State Lands and the State Land Office from the Office of the Secretary, Department of Natural Resources to the Office of the Governor, Division of Administration. Repeal and repromulgation of the following rules reflect this transfer. The rules for the State Land Office were repealed under Part I - Office of the Secretary and repromulgated under Part XXVII - State Lands.

Act 178 of the 1992 Regular Legislative Session authorized the State Land Office to collect a fee that was collected by the Office of Mineral Resources, Department of Natural Resources for a Notice of Mineral Lease Sale booklet. The repeal of LAC 43:V.103.D under the Office of Mineral Resources and repromulgation under the State Land Office as LAC 43:XXVII.2901.A merely transfers the collection of the \$120 annual fee for the Notice Book from Mineral Resources to the State Land Office as directed by Act 178 of 1992.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Chapter 5. State Lands

Repealed

Part V. Office of Mineral Resources

Chapter 1. Administrative Division

§103. Fees

D. Repealed

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session 1988.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 14:544 (August 1988), repealed by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

Part XXVII. State Lands

Chapter 21. Procedure and Requirements for Reclamation Projects

§2101. Class A and Class E Permits

A. Permits may be granted to owners of land contiguous to and abutting navigable waterbottoms belonging to the state to construct landfills either for the purpose of reclaiming or recovering land lost through erosion by action of the water body if said erosion occurred on and after July 1, 1921, or for the purpose of maintaining an encroachment on non-eroded state lands. A Class "A" permit shall be issued for reclamation of lands eroded on or after July 1, 1921. Lands reclaimed shall be subject to the procedures as set forth in "Boundary Agreements" of these rules and regulations. A Class "E" permit shall be issued for reclamation of non-eroded lands. Landfills constructed on non-eroded state lands shall be subject to the procedures as set forth in "Leases: Reclamation"

of these rules and regulations.

B. Submitting Procedures. Applicant shall notify the commissioner of the Division of Administration in writing of his intent to apply for a permit for work contemplated. Such letter shall contain a description of the proposed physical work to be performed, materials to be used and identity of the body of water involved. Upon receipt of applicant's letter, the commissioner shall forward the appropriate permit form to the applicant with a copy of these regulations. Upon completion of the appropriate form the applicant shall:

1. apply to the governing authority of the parish or parishes within which the work or structures will be located for their approval or permit for the project;

2. apply to the U. S. Corps of Engineers for the appropriate federal permit, and in the event that the Corps of Engineers declines jurisdiction over the proposed work, and does not publish notice;

3. cause to have published at least once, notice of the application in the official journal of the parish or parishes.

C. Fees

1. An application for a Class A or E permit shall be accompanied by a non-refundable administrative and processing fee of \$50;

2. In the event that review of the application requires special work in the field such as special field examination or survey, the applicant shall be required to pay for such special work, the price of which shall be fixed by the commissioner based on his estimate of the cost of special work to the state. The commissioner shall notify the applicant of the estimated cost of such special work and shall not proceed until the estimated cost of same is paid.

D. Application requirements for class A or E permits issued under Act 645 of 1978. Applications must be submitted in triplicate to the commissioner of the Division of Administration, and each application must include the following:

1. application form as provided by the Division of Administration;

2. approval of the parish governing authority for the project;

3. a certified deed of ownership* (of the lands contiguous to public lands);

4. if the applicant is not the owner, a certified copy of the deed or other instrument* under which the owner holds title plus written permission for the applicant to carry out the project. NOTE: Should the encroachment be located wholly upon state waterbottoms and not proximate to any bank or shore, no deeds of ownership or written permission need be furnished provided that the letter of intent contain details of ingress and egress for such structure;

5. map or plat showing:

a. location of the activity site including section, township, and range;

b. Louisiana grid coordinates of all corners and angle points;

- c. name of waterway;
 - d. all applicable political (parish, town, city, etc.) boundary lines;
 - e. name of and distance of local town, community or other identifying location;
 - f. names of all roads in the vicinity of the site;
 - g. graphic scale;
 - h. north arrow;
6. plan view showing:
- a. existing shorelines;
 - b. ebb and flood in tidal waters and direction of flow in rivers;
 - c. mean high water line;
 - d. mean low water line;
 - e. water depth around the project;
 - f. extent of land area reclaimed or filled shown in square feet;
 - g. extent of encroachment beyond applicable water lines;
 - h. waterward dimensions from an existing permanent fixed structure or object;
 - i. location of structures, if any, in navigable water immediately adjacent to the proposed activity;
7. elevation and/or section view showing:
- a. same water elevations as in the plan view;
 - b. depth at waterward face of proposed work;
 - c. dimensions from applicable water lines for proposed float or pile supported platform;
 - d. graphic or numerical scale;
 - e. detailed drawings of construction including plot plan, cross section and profile;
8. non-refundable administrative and processing fee of \$50;
9. letter of intent.

E. Where a permit application contemplates any form of landfill or reclamation, the map or plat submitted must be prepared by a professional land surveyor currently registered by the State Board of Registration for Professional Engineers and Land Surveyors.

F. Verification of Work. Upon completion of the project, the applicant is required to submit verification of the work completed to the commissioner of the Division of Administration within 60 days. The applicant is required to submit a final certified map or plat prepared by a professional land surveyor currently registered by the State Board of Registration for Professional Engineers and Land Surveyors as verification.

G. Boundary Agreements and Leases

1. After fulfilling the requirements for verification of work completed pursuant to a reclamation permit, the applicant and the commissioner of the Division of Administration shall enter into an agreement fixing the definitive boundary between the reclaimed land area and the waterbottoms. No definitive boundary shall be fixed nor shall title be vested unless and until proof is made that the reclaimed land is raised to a minimum height of six inches above mean high water and is stabilized along the newly created bank or shore by masonry, concrete mats, riprap,

*Only one certified copy of deed or instrument is required.

sheet piling, bulkheads, or similar constructions to reasonably insure permanence as required by law.

2. Upon completion of a Class E permit construction and verification, a lease is required as follows:

a. after fulfilling the requirements for verification of work completed pursuant to a landfill the applicant and the commissioner of the Division of Administration shall enter into a lease agreement to operate or maintain the encroachment. Such leases will not be subject to competitive bidding except in those cases where the best interest of the state and applicant will be served. The consideration for such leases shall be based upon the size and nature of the encroachment. The lease shall be assessed at five percent of the appraised value of the land for noncommercial use and at 7.5 percent of the appraised value for commercial uses with a minimum fee of \$100 per year. The property will be reappraised at the expiration of the primary term of the lease;

b. leases entered into shall be for a term of five years and subject to renewal by lessee for nine successive terms. In no case shall the maximum term of such leases exceed 50 years. At the end of a 50-year maximum period, lessees may apply for a new lease for the subject encroachment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1701-1714 and R.S. 41:1131.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 3:248 (May 1977), amended LR 5:8 (January 1979), LR 7:342 (July 1981), LR 12:440 (July 1986), LR 17:777 (August 1991), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

Chapter 23. Procedures and Requirements for Permitting and Leasing Encroachments onto State Owned Property

§2301. Class B, Class C and Class D Permits

A. A Class "B" Permit shall be issued to construct bulkheads or flood protection structures in proximity to the bank or shore. Permits and leases may also be granted for the construction and/or maintenance of commercial structures which are permanently attached to public lands by pilings or other means. Such structures shall include, but not be limited to wharves, piers, storage docks, camps, warehouses, residences, bulkheads, restaurants, dams, bridges, etc. A Class "C" Permit shall be issued to construct wharves and piers and a Class "D" Permit shall be issued for those structures other than wharves and piers. Exempted from permit and lease requirements are commercial and non-commercial wharves and piers less than 50 linear feet whose surface area does not exceed 150 square feet, unless part of another encroachment or unduly interferes with public interests, navigation or fishery. Structures constructed on state lands shall be subject to the procedures as set forth in "Leases: Structures" of these rules and regulations.

B. Submitting Procedures. Applicant shall notify the commissioner of the Division of Administration in writing of his intent to apply for a permit for work contemplated. Such letter shall contain a description of the proposed physical work to be performed, materials to be used and identity of the body of water involved. Upon receipt of applicant's letter, the commissioner shall forward the appropriate permit form to the

applicant with a copy of these regulations. Upon completion of the appropriate form the applicant shall:

1. apply to the governing authority of the parish or parishes within which the work or structures will be located for their approval or permit for the project;

2. apply to the U. S. Corps of Engineers for the appropriate federal permit, and in the event that the Corps of Engineers declines jurisdiction over the proposed work, and does not publish notice;

3. upon request of the governing authorities of the parish cause to have published at least once, notice of the application in the official journal of the parish or parishes.

C. Fees

1. an application for a permit shall be accompanied by a non-refundable administrative and processing fee of \$10;

2. in the event that review of the application requires special work in the field such as special field examination or survey, the applicant shall be required to pay for such special work the price of which shall be fixed by the commissioner based on his estimate of the cost of special work to the state. The commissioner shall notify the applicant of the estimated cost of such special work and shall not proceed until the estimated cost of same is paid.

D. Application Requirements for Class B, C, OR D Permits. Applications must be submitted in triplicate to the commissioner of the Division of Administration, and each application must include the following:

1. application form as provided by the Division of Administration;

2. approval of the parish governing authority for the project;

3. a certified deed of ownership* (of the lands contiguous to public lands);

4. if the applicant is not the owner, a certified copy of the deed or other instrument* under which the owner holds title plus written permission for the applicant to carry out the project. **NOTE:** Should the encroachment be located wholly upon state waterbottoms and not proximate to any bank or shore, no deed of ownership or written permission need be furnished provided that the letter of intent contain details of ingress and egress for such structure;

5. map or plat showing:

a. location of the activity site including section, township and range;

b. name of waterway;

c. all applicable political (parish, town, city, etc.) boundary lines;

d. name of and distance of local town, community or other identifying location;

e. names of all roads in the vicinity of the site;

f. graphic scale;

g. north arrow;

6. plan view showing:

a. existing shorelines;

b. ebb and flood in tidal waters and direction of flow in rivers;

*Only one certified copy of deed or instrument is required.

- c. mean high water line;
 - d. mean low water line;
 - e. water depth around the project;
 - f. extent of encroachment beyond the applicable water lines;
 - g. waterward dimensions from an existing permanent fixed structure or object;
 - h. location of structures, if any, in navigable water immediately adjacent to the proposed activity;
7. elevation and/or section view showing:
- a. same water elevations as in the plan view;
 - b. depth at waterward face of proposed work;
 - c. dimensions from applicable water lines for proposed load or pile supported platform;
 - d. graphic or numerical scale;
 - e. detailed drawings of construction including plot plan, cross section and profile;
8. non-refundable administrative and processing fee of \$10;
9. letter of intent.

E. If the proposed project falls under the United States Army Corps of Engineers jurisdiction and permit(s) are being sought from that agency, the applications submitted to the Corps of Engineers may be submitted to the Division of Administration in lieu of the above, providing that all copies are clear and legible and the Corps permit application does in fact contain all of the information described above.

F. Leases

1. All class C and D permits are accompanied by a lease agreement described as follows:

a. after fulfilling the requirements for a structure permit, the applicant and the commissioner of the Division of Administration shall enter into a lease agreement to operate or maintain the encroachment. Such leases will not be subject to competitive bidding except in those cases where the best interest of the state and applicant will be served. The consideration for such leases shall be based upon the size and nature of the encroachment.

b. annual rentals on leases for commercial wharves, piers, and other structures issued pursuant to R.S. 41:1201-1215 lying outside of the jurisdiction of deep water port commissions shall be levied at two cents per square foot of state owned land or waterbottom enclosed or utilized by the structures and associated vessels. Those lands so utilized shall include the pier, wharf or dock itself, all associated piles, dolphins, structures, and waters adjacent and contiguous to the above structures occupied by vessels docking at said structures. The waters so utilized by vessels and included in the lease shall be measured in 10-foot increments adjacent and adjoining the structures (10, 20 or 30 feet) depending upon the size of the vessels docking at that particular pier, dock or wharf. Any contiguous area of water where boats may be moored shall be assessed according to the following schedule:

- i. boats less than 35 feet in length require a 10-foot wide berthing;
- ii. boats 35 to 75 feet in length require a 20-foot wide berthing;
- iii. boats greater than 75 feet in length require a 30-

foot wide berthing.

2. In no instance shall the consideration be less than \$100 per annum.

3. Leases entered into shall be for a term of five years and subject to renewal by lessee for nine successive terms. In no case shall the maximum term of such leases exceed 50 years. At the end of a 50-year maximum period, lessees may apply for a new lease for the subject encroachment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1701-1714 and R.S. 41:1131.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 3:248 (May 1977), amended LR 5:8 (January 1979), LR 7:342 (July 1981), LR 12:440 (July 1986), LR 17:777 (August 1991), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

Chapter 25. General Regulations Regarding all Permits \$2501. General Permit Conditions

A. Approval of Local and Other State Authorities. No permits shall be issued nor shall any work commence until the application has first been approved by the governing authority of the parish wherein the property is located, Office of Public Works, Department of Wildlife and Fisheries, State Mineral Board, Coastal Management Section (if the project is in the coastal zone) and such other parochial or state agencies which may have jurisdiction over such matter. Coordination and dissemination among the several agencies will be performed by the commissioner of the Division of Administration.

B. Objections and Public Hearings

1. Objections shall be received by the commissioner of the Division of Administration for a period of 30 days from date of published notice, to correspond with the delays established by the U. S. Corps of Engineers. In the event that opportunity for public hearing is deemed necessary by either the state, through the commissioner of the Division of Administration, or the U. S. Corps of Engineers, all efforts will be made by the state to accommodate the applicant by holding one hearing together with the federal authorities at whatever time and place the latter stipulates.

2. At the end of the prescribed period for objections, or after the public hearing if necessary, the governing authority of the parish or parishes shall either approve or object to the application, with reasons, and forward their determination to the commissioner of the Division of Administration, together with all required attachments and evidence of publication of notice by either the Corps of Engineers or the applicant, for processing as provided herein.

C. Reasons for Denial or Limitation. No reclamation, encroachment or lease shall be allowed if in the determination of the Office of Public Works, Department of Wildlife and Fisheries, State Mineral Board or the commissioner of the Division of Administration, such activity would obstruct or hinder the navigability of any waters of the state, impose undue or unreasonable restraints on the state or public rights which have vested in such areas pursuant to Louisiana law, or result in unacceptable adverse impacts to the environment of the coastal zone, and to that extent the land area sought to be reclaimed, or the structure or construction, may be limited.

D. Hold Harmless. All permits and leases approved and

issued hereunder shall be conditioned upon applicant's agreement to hold the State of Louisiana and her agencies and subdivisions harmless for applicant's acts or omissions in reclaiming and maintaining eroded lands and constructing or maintaining any structures and bulkheads, though the permit or lease for the same subsequently expires or is revoked.

E. Encumbrances. A permit will be issued subject to and encumbered with any right-of-way or servitude, or any mineral, geothermal, geopressure, or any other lease acquired or granted by the state for a lawful purpose while the reclaimed land was an eroded area. Nothing in these regulations shall prevent the leasing of state lands or waterbottoms for mineral or other purposes.

F. Maximum Permit Term. All permits issued pursuant to these provisions shall be effective for a period not to exceed two years from the date of issuance and shall thereupon expire. All work remaining or any additional work may be completed only by a new permit application.

G. Vested Rights. No permit or lease shall be construed to vest any proprietary rights or title in any private owner except as to lands actually reclaimed and maintained, pursuant to Act 645 of 1978. Eroded lands contiguous to the coast of the Gulf of Mexico as defined in the Decree of the United States Supreme Court dated July 16, 1975, in *United States vs. Louisiana*, No. 9 Original, may be reclaimed under reclamation permits, out to the coastline.

H. Copies to Local Governments. A copy of the permit issued, along with the pertinent plats attached and the documentation required to be submitted 60 days after completion of work shall be filed with the clerk of court of the parish or parishes affected. A copy of the above shall also be furnished the assessor of the parish or parishes for assessment purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1701-1714 and R.S. 41:1131.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 3:248 (May 1977), amended LR 5:8 (January 1979), LR 7:342 (July 1981), LR 12:440 (July 1986), LR 17:777 (August 1991), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

Chapter 27. Rights-of-Way

§2701. Granting of Rights-of-Way to Corporations or Individuals

A. Applicants are to use the state right-of-way form provided by the State Land Office. A special form is used for escrow agreement permits.

B. The right-of-way form must be submitted in triplicate with a legal size plat(s) attached to each copy.

C. The description contained in the right-of-way form must indicate section, township and range, or area and block number(s) if offshore; name of the body of water to be crossed; the size of the pipe and the length of the right-of-way in rods.

D. The plat(s) must reveal the following:

1. station numbers at the mean low water elevation on a river; the station number at the mean high water elevation on a lake, bay or Gulf of Mexico; or station number at ingress and egress of state properties. Said plat, when illustrating the

mean low water line of a river or the mean high water line of a lake or the Gulf, will be authoritative only as to the date of the application for calculation of the state's consideration. The limits of state property reflected on said plat are illustrative only and recognized solely and only for computing the fee for this grant, and are not intended and shall not be construed as determinative of actual title for the benefit of any adjoining owners, whether a grantee herein or a third party;

2. the section, township and range if in an area that has been surveyed;

3. the product to be transported;

4. the location of the pipeline with respect to the right-of-way.

E. Names of adjoining land owners cannot be shown on the plat unless necessary for legal description.

F. The right-of-way form must be accompanied by a letter of intent which shall contain the following information:

1. initiating and terminating point of the pipeline;

2. point of origination of product to be transported as a result of this construction;

3. capacity or if a loopline added capacity as a result of this construction;

4. estimated volume of product to be transported as a result of this construction;

5. a detail of construction;

6. pipe specifications including size, wall thickness and type;

7. the proposed and maximum operating pressures.

G. Where state mineral leases are traversed, an applicant will furnish the commissioner of the Division of Administration a copy of the letter of notification (with signed, certified returned receipt attached) which has been sent to the mineral lessees.

H. It is necessary that permission or clearance be obtained from the United States Corps of Engineers; State Office of Public Works, Department of Transportation and Development; Louisiana Department of Environmental Quality, Water Pollution Control Division; The Louisiana Department of Wildlife and Fisheries and both the Coastal Management Division and the Office of Conservation of the Department of Natural Resources if the operation is within their respective jurisdictions and from any other agency having permit authority over the proposed project.

I. Clearance shall be obtained from the secretary of the Department of Wildlife and Fisheries, New Orleans, Louisiana, when oyster leases are to be traversed.

J. Written consent must be obtained from the secretary of the Department of Wildlife and Fisheries if the proposed right-of-way crosses a state or federal preserve. Similar clearance is required from any agency having jurisdiction over surface rights of state lands being crossed.

K. The state requires payment for all grants across state lands or navigable streams, regardless of size.

L. The proposed route of the pipeline shall be subject to approval of the commissioner of the Division of Administration.

M. Fees for permits shall be as follows:

1. Class 1. Pipe two inches up to 19 inches outside

diameter with a maximum of 75 feet right-of-way during construction to revert to 35 after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification - \$25 per rod.

2. Class 2. Pipe 19 inches up to 36 inches outside diameter with a maximum of 100 feet right-of-way during construction to revert to 50 feet after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification - \$35 per rod.

3. Class 3. Pipe over 36 inches outside diameter with a maximum of 200 feet right-of-way during construction to revert to 60 feet after construction is completed with the additional rights of ingress and egress for the purpose of maintenance, repairs, removal or modification - \$45 per rod.

4. The minimum fee for any application processed shall be \$50 with a \$100 fee assessed for any assignment of permit thereafter.

N. Contract Term. Twenty years with option to renew for additional 20 year term. The option to renew shall be on the same terms and conditions as the original agreement except that the consideration shall be adjusted to reflect the percentage of increase or decrease in the cost of living index as established by the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor or any revision or equivalent of any such index published by the United States Government, which has occurred from date of this instrument to the date of renewal provided however that in no event shall consideration of such renewal be less than the consideration paid herein for the original term.

O. There shall be no above-ground installations, i.e., valve setting, tie-overs, platforms, etc., without the express consent and approval of the commissioner of the Division of Administration. The secretary shall have authority to establish the basis of compensation (which amount shall be in addition to the per-rod consideration referred to in these rules) for such above-ground installation. The application for pipeline rights-of-way shall contain a concise description of any such above-ground facility together with appropriate drawing, showing location of same and profile of design and style.

P. All pipelines constructed under permits granted by the State of Louisiana shall be in accordance with Parts 191, 192 and/or 195 of Title 49 of the Code of Federal Regulations, as amended, and other federal and state laws not in conflict therewith.

Q. The State of Louisiana is held free from any and all liabilities.

R. A copy of the Right-of-Way Grant, along with a pertinent plat(s) attached, must be filed with the Clerk of Court of the parish or parishes affected and the Division of Administration furnished recordation data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1173.

HISTORICAL NOTE: Adopted by the State Land Office, LR 1:147 (February 1975), amended by the Department of Natural Resources, Office of the Secretary, LR 3:314 (July 1977), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

Chapter 29. Fees for Certified Copies

§2901. Fees for Certified Copies

A. Fees charged by the State Land Office for providing certified copies of various matters pertaining to tax adjudicated lands, patents, and official township plats are as follows:

1. original redemption certificates - \$10;
2. original cancellation certificates - \$10;
3. original patents - \$50;
4. copies of official township plats - \$10;
5. copies of field notes - \$1 per page;
6. copies of patents - \$1 per page;
7. each certification of copies named above - \$5;
8. copies of any other State Land Office document - \$1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:8.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:29 (January 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

Chapter 31. Rules and Regulations for Best Use of Nonessential Property

§3101. Rules and Regulations Providing for Designation of Immovables as Nonessential Property

A. Definitions

1. *Nonessential Property*—land and immovable structures thereon, the use of which is not indispensable to fulfillment of an agency's legally established functions.

2. *Best Use of Nonessential Property*—the use which is possible physically, feasible financially and permissible legally.

B. All state agencies shall review their property inventories in order to designate as nonessential property which could be transferred to the State Land Office (hereinafter referred to as the State Land Office). Land, and immovable structures thereon, the use of which is not indispensable to fulfillment of an agency's legally established functions, shall be considered nonessential property; designated thusly, it shall be expendable immediately from the agency's inventory.

C. In order to designate property as nonessential, one of these criteria must be met:

1. property has been closed, abandoned or neglected by the agency, or
2. the controlling agency formally acknowledges that another agency would derive greater benefits from use of the property.

D. Transfer of Property from the Agency to the Department.

1. Following designation of property as nonessential, the secretary, or head of the agency, shall prepare a written request for the transfer of property from the agency to the State Land Office.

2. The State Land Office and the agency shall execute an agreement which transfers the agency property to the State Land Office. Copies of this agreement shall be retained by the agency and the State Land Office and also shall be filed with the clerk of court for the Parish of East Baton Rouge and the clerk of court for the parish in which the property is located. Additionally, one copy shall be sent to the Office of the Governor, Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:140.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:411 (July 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

§3102. Best Use or Disposition of Property

A. Upon the transfer of nonessential property to the State Land Office, they shall prepare a land management evaluation report setting forth recommendations for the best use or other disposition of the property.

B. The use which is possible physically feasible financially and permissible legally shall be considered the best use implementable by the State Land Office. Sale, transfer, lease or management of the property are examples of best use.

C. The land management evaluation report and recommendations prepared by the State Land Office shall contain the following:

1. copy of transfer to the State Land Office;
2. property appraisal prepared by or reviewed by the public lands appraiser;
3. provision for a minimum acceptable bid, which shall be ninety percent of the appraisal in Paragraph 2 above;
4. timber appraisal if applicable;
5. map of the property;
6. complete legal description of the property;
7. recommendations for best use or disposition of property;
8. method of sale, if applicable, and reasons therefore;
9. blank approval letter, to be completed by the House and Senate Natural Resources Committees and returned to the State Land Office.

D. Within 10 days of completion, the land management evaluation report shall be filed with the Division of Administration, the House and Senate Natural Resources Committees and the representative and senator in whose district the property is located.

E. In order to initiate implementation of its recommendation for best use or other disposition of the property, the State Land Office must receive the written approval of both House and Senate Natural Resources Committees not more than 90 days following receipt of the recommendation by the committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:140.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:411 (July 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

§3103. Recommendations Approved by the Appropriate Committees Shall be Implemented by the State Land Office

A. The sale of property shall be through public bid, whether by auction or sealed bids, in accordance with R.S. 41:131-134 or 47:2189.

B. The lease of property shall be through public bid in accordance with R.S. 41:1221 et seq. and other applicable statutes.

C. Property not disposed of by the department shall be utilized in such a manner as to derive maximum revenue from the property.

D. Sales and leases shall be recorded with the clerk of court for the parish in which the property is located, and a copy retained by the State Land Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:140.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:411 (July 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

§3104. Procedure

A. Transfer

1. request for transfer;
2. inspection by State Land Office;
3. transfer to State Land Office.

B. Report

1. appraisal;
2. minimum bid;
3. copy of transfer;
4. maps;
5. legal description;
6. recommendations and best use;
7. method of sale;
8. approval letter;
9. cover letter.

C. Approval

D. Best Use or Disposition

1. transfer;
2. lease;
3. land management;
4. sale:
 - a. public auction;
 - b. sealed bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:140.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:411 (July 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

Chapter 33. Tax Land Sales

§3301. Sales Through Real Estate Brokerage Firms

A. Any person and/or firm listed as a qualified and licensed broker by the Louisiana Real Estate Commission may nominate for sale a parcel or parcels of unredeemed property adjudicated to the state for unpaid taxes.

B. The nomination, to be submitted to the State Land Office, Box 44124, Baton Rouge, LA 70804, shall include the following information as certified by the broker:

1. a complete description of the property, the name of the tax debtor, and the year for which taxes were unpaid;
2. he/she completed or caused to be completed a thorough review of the records of the assessor's office of the parish where the property is located, and there are no dual assessments affecting the property. In the event the records reveal a dual assessment, the broker will furnish the name or names of the parties listed as owners;
3. he/she completed or caused to be completed a thorough search of the conveyance records of the parish where the property is located, and there are no transactions of record which resulted in alienation of the property;

4. current information regarding the owners of the property, and the last known addresses on file with the assessor's office;

5. a list of the names and mailing addresses of all holders of encumbrances recorded against the property.

C. The State Land Office will evaluate information submitted by the broker in order to determine the appropriateness of a sale.

D. In the event the State Land Office concludes that the best interests of the state would be served by redemption of the property, it will notify the broker, and commence efforts to locate parties with interest to redeem the property.

E. If no one with an interest initiates redemption proceedings within 35 days of the mailing of notification pursuant to Paragraph 4 above, the State Land Office will inform the broker that a sale is appropriate.

F. In addition to the requirements set forth in R.S. 47:2189, the broker also shall submit an appraisal, along with an on-site inspection.

G. Nothing herein shall prevent the State Land Office from conducting a second appraisal, where deemed appropriate by the department. In all instances, the State Land Office may use whichever appraisal it considers acceptable in arriving at the minimum price for the property.

H. Whenever practicable, the minimum price shall be sufficient to satisfy all taxes and other costs associated with the sale which must be paid pursuant to R.S. 47:2190.

I. The broker's commission, established by R.S. 47:2189.1 as a cost of the sale, shall be six percent of the amount received by the state treasurer pursuant to R.S. 47:2189.1.

J. The State Land Office shall provide the state treasurer with the broker's name, address and vendor's number, and the state treasurer shall remit the commission to the broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2189.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 13:501 (September 1987), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

Chapter 35. Notice of Publication for Mineral Leasing **§3501. Notice of Publication Booklet**

A. The State Land Office shall charge a fee of \$120 annually (\$10 per month) for subscription to the Notice of Publication.

AUTHORITY NOTE: Promulgated in accordance with Act 13, First Extraordinary Session 1988.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 14:544 (August 1988), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19: (April, 1993).

H. Glen Kent
Public Lands Administrator

RULE

Department of Health and Hospitals Board of Examiners of Psychologists

Psychological Testing, Evaluation and Assessment (LAC 46:LXIII.1702)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Psychologists adopts the following rule:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 17. Specialty Titles

§1702. Definition of Psychological Testing, Evaluation and Assessment

A. As contained in R.S. 37:2352(5), the practice of psychology includes, but is not limited to, psychological testing and evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning. The Board of Examiners of Psychologists finds it necessary to formally define psychological testing in order to protect the people of this state from the unlawful, unqualified and improper use of psychological tests. The intent of this rule is to provide a definition of psychological testing sufficient to allow this board to effectively regulate this aspect of psychological practice. The Board of Examiners of Psychologists recognizes that, except as otherwise provided by law, psychological testing may only be administered and interpreted by a person duly licensed as a psychologist by this board under R.S. 37:2351 et seq., or by a person under the direct supervision of a psychologist, provided that such supervision is in compliance with the regulations of this board.

B. Nothing in these regulations should be interpreted or construed as to limit or restrict the practice of physicians duly licensed to practice medicine by the Board of Medical Examiners. Also, nothing in this rule should be construed as having application to any persons licensed or certified under other laws of this state when acting within the legal scope of such licensure or certification in rendering services as expressly set forth under those relevant statutes.

C. Psychological testing, evaluation or assessment, hereinafter referred to as "psychological testing", is defined as the administration and/or interpretation of measurement instruments, devices, or procedures for the purpose of treatment planning and/or diagnosis, classification or description of mental and emotional disorders and disabilities, disorders of personality or behavior, psychological aspects of physical illness, accident, injury or disability, and neuropsychological impairment. The use of computerized psychological assessment procedures is also included in the scope of this regulation.

D. Psychological testing explicitly includes the following three areas:

1. Intellectual—which includes those normative-based individually administered instruments used to measure cognitive functions such as abstract reasoning, fund of knowledge and problem solving.

2. Personality and Emotional—which includes those normative-based instruments used to measure both trait and state aspects of personality and emotional characteristics and functioning.

3. Neuropsychological—which includes those normative-based instruments used to make inferences about brain and behavior relationships. These relationships include, but are not limited to, sensorimotor functioning, attention and concentration skills, memory functioning, language function, concrete and abstract problem solving, and measures of cognitive flexibility and creativity.

E. Notwithstanding any provisions herein to the contrary, psychologists as well as other appropriately licensed or certified professionals may also administer or use tests of language, educational and achievement tests, adaptive behavioral tests, and symptom screening checklists or instruments, as well as tests of abilities, interests, and aptitudes. The administration and interpretation of these tests is not exclusively within the scope of this regulation.

F. Psychological testing within the independent practice of psychology must be performed in accordance with the requirements of Louisiana Administrative Code, Title 46, Chapter 13, Ethical Standards of Psychologists. The ability to competently interpret psychological testing assumes a doctoral degree in psychology with formal academic training in statistics, test construction, sampling theory, tests and measurement, individual differences, and personality theory. In addition, the interpretation of psychological tests for treatment planning, diagnostic, classification, or descriptive purposes assumes formal doctoral level academic training in the areas of abnormal psychology, psychopathology, psychodiagnosis and, in the case of neuropsychological diagnosis, additional formal training and/or demonstrated competence in the field of clinical neuropsychology. All training must be supervised by a licensed psychologist and must include formal supervised practical experience and internship training, when appropriate, involving the use of psychological tests with different patient populations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR: (April 1993).

Mark P. Vigen, Ph.D.
Chairman

RULE

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

Durable Medical Equipment

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid Program under the Administrative Procedure Act., R. S. 49:950 et seq.

RULE

The Bureau of Health Services Financing has implemented a dual methodology for pricing durable medical equipment. Some durable medical equipment including prosthetics and orthotics will be reimbursed at a flat fee or according to the billed charges whichever is the lesser amount. A second group of equipment will be priced on an individual basis due to pricing variations resulting from unique specifications. Pricing of this equipment group will include analyses of such factors as the Medicare rate and upper limits, invoiced costs to providers and negotiated rates based on data from private insurers regarding their allowable reimbursement for these types of equipment.

Disapproval of this change by the Health Care Financing Administration will automatically cancel the provision of this rule and the current policy will remain in effect.

J. Christopher Pilley
Secretary

RULE

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

Mental Health Rehabilitation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, hereby adopts the following rule in the Medical Assistance Program. This rule was previously published as an emergency rule in the *Louisiana Register*, Vol. 18, No. 9, page 937, September 20, 1992, and January 20, 1993, Vol. 19, No. 1, page 14 and as a notice of intent in December 1992.

Mental Health Rehabilitation Services were adopted as an optional part of the covered services provided by Medicaid of Louisiana effective July 1, 1989. Recent interpretations by the Health Care Financing Administration regarding the definition of these services requires that changes be made to the program in order to comply with federal regulations.

RULE

The Bureau of Health Services Financing shall define as Medicaid services, the following mental health rehabilitation

services for mentally ill adults or emotionally disturbed children (as defined by Division of Mental Health) which are necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community:

I. Mental Health Rehabilitation Management

Mental health rehabilitation services must be provided according to a mental health rehabilitation plan developed by a licensed professional who is a QMHP, in conjunction with a physician. The attending physician must document that the recipient meets the definition of disability required to receive this service, and must order the rehabilitation services on a mental health rehabilitation plan. A mental health rehabilitation management agency coordinates and manages rehabilitation plans presented by referred recipients, and develops initial plans for those clients referred without one. Mental health rehabilitation management providers follow-up on services provided to determine their effectiveness, and assist the attending physician who must review the progress and recertify the recipient for services at least quarterly. Management providers are responsible for referral to other providers, such as case management for the chronically mentally ill, if the recipient has identified needs which are not treatable by mental health rehabilitation services. Authorized services must be medically necessary and reasonable in amount and the management provider is responsible for the judicious scheduling of them. Mental health rehabilitation management services may be provided anywhere in the community. The only excluded settings are mental institutions (including distinct part psychiatric units). Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per occurrence and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

II. Mental Health Rehabilitation Counseling and Therapy

Counseling and therapy involves a series of face-to-face structured, time limited, and verbal interactions between the counselor or therapist and person(s) receiving services. The purpose is to attain goals and objectives specified in the mental health rehabilitation plan. All counseling and therapy is to be provided under the supervision of a QMHP who is a licensed professional by either a QMHP or someone with a master's degree in psychology, counseling, or social work. This component of mental health rehabilitation services also includes treatment integration which is performed by para-professionals under the direction of a QMHP. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. The only excluded settings are hospitals. Mental health rehabilitation services are to be

provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per unit of time (except for consultations which are reimbursed on a per occurrence basis) and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

III. Mental Health Rehabilitation Psychosocial Skills Training

These paraprofessional services are provided by appropriately trained and supervised staff to help integrate therapeutic principles into the daily activities of the mental health rehabilitation recipient. The purpose is to achieve the restoration, reinforcement and enhancement of the skills and/or knowledge necessary for the person to achieve the maximum reduction of psychiatric symptoms, to increase the level of his/her age appropriate and/or independent functioning, and to successfully assimilate into the community. Mental health rehabilitation services are to be provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. These services may be provided in a number of community settings, only hospital settings are excluded. Services shall be billed per unit of time (except for consultations which are reimbursed on a per occurrence basis) and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

IV. Medication Services

These professional rehabilitation support services are provided to assess or monitor a person's status in relation to treatment with medication, to instruct the client, family, significant others or caregivers of the expected effects of therapeutic doses of medications or to administer prescribed medication when ordered by the supervising physician as part of a mental health rehabilitation plan. Medication administration alone does not qualify as a mental health rehabilitation service. It may be included in a rehabilitation plan only when it is necessary to enable a recipient to make productive use of other mental health rehabilitation services.

Mental health medication management services may be provided anywhere in the community. The only excluded settings are hospitals and nursing facilities. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per occurrence and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

V. Mental Health Rehabilitation Crisis Services

These professional rehabilitation services are to provide immediate emergency intervention with the client, family, legal guardian, and/or significant others to ameliorate a client's maladaptive emotional/behavioral reaction. Service is designed to resolve the crisis and develop symptomatic relief, increase knowledge of where to turn for help at a time of further difficulty, and facilitate return to pre-crisis routine functioning.

Crisis services may be provided anywhere in the community. The only excluded settings are hospitals. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure. Crisis services are not included in the mental health rehabilitation plan, however, the use of physical restraint and medication management must be authorized in advance by a physician, and all crisis services must be reported to the recipient's rehabilitation management provider for documentation in the recipient's record by the next business day after being provided. Services shall be billed per unit of time and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

Standards for Participation

The provider of rehabilitation services for the mentally ill adult or the emotionally disturbed child (as defined by Division of Mental Health) must:

A. enter into a provider agreement with the Bureau of Health Services Financing, and abide by the provisions of the Provider Agreement and other applicable state and federal regulations related to enrollment as a Medicaid provider;

B. must be certified as a Comprehensive Community Mental Health Services Provider by the Division of Mental Health; or be licensed in the appropriate category to provide the services by the Division of Licensing and Quality Assurance of the Division of Social Services;

C. ensure that all rehabilitative services are provided by or under the supervision of a Qualified Mental Health Professional (QMHP) as defined by the Division of Mental Health as follows:

1. a physician who is duly licensed to practice medicine in the state of Louisiana and has completed an accredited training program in psychiatry; or

2. a psychologist who is licensed as a practicing psychologist under the provisions of state law; or

3. a social worker who holds a master's degree in social work from an accredited school of social work and is a board certified social worker under the provisions of R.S. 37:2701-2718; or

4. a nurse who is licensed to act as a registered nurse in the state of Louisiana by the Board of Nursing and:

a. is a graduate of an accredited master's level program in psychiatric mental health nursing with two years experience; or

b. has a master's degree with two years of supervised experience in the delivery of mental health services; or

c. has four years of experience in the delivery of mental health services; or

5. a licensed professional counselor who is licensed as such under the provision of state law and has two years experience in the delivery of mental health services; or

6. an individual with a master's degree in a human services field or education and two years of supervised experience in the delivery of mental health services; or

7. an individual with a baccalaureate degree in a human services field or education and four years of supervised experience in the delivery of mental health services.

D. ensure that services are provided in accordance with a mental health rehabilitation plan approved by a licensed physician and a qualified mental health professional;

E. ensure that sufficient records to document the rehabilitative services being provided to the mentally ill adult or emotionally disturbed child under this provision are maintained in accordance with state and federal regulations;

F. comply with state and federal regulations regarding the completion and submittal of cost reports and audit of same;

G. comply with state and federal regulations regarding subcontracts.

Reimbursement

Reimbursement for rehabilitative services to mentally ill adults or emotionally disturbed children shall be in accordance with a negotiated rate per unit of time or a fee for service established by the Bureau of Health Services Financing based on prevailing rates and the cost of providing the service. All services are reimbursable only when provided in accordance with a mental health rehabilitation plan approved by a licensed physician and a qualified mental health professional, with the exception of crisis care services which may be recommended by the qualified mental health professional or physician on duty during the crisis.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and the current policy will apply.

J. Christopher Pilley
Secretary

RULE

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

Nursing Facility—Infectious Disease

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule providing for Nursing Facility—Infectious Disease reimbursement in the Medicaid Program for qualified Title XIX nursing facility patients in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

RULE

The Bureau of Health Services Financing includes the reimbursement for skilled nursing services provided to nursing facility patients with methicillin-resistant staphylococcus aureus

(MRSA) under the Nursing Facility—Infectious Disease reimbursement methodology in accordance with the following medical criteria which define those patients who are eligible for services at the enhanced rate. All required documentation, reporting or audit requirements applicable to those facilities seeking reimbursement under this rate for persons with AIDS or ARC also apply for this patient group. In addition, facilities certified to provide for this patient group must adhere to all agency standards for participation applicable to the providing of services to patients classified for the skilled level of care.

Medicaid of Louisiana has developed the following patient, criteria, facility requirements and standards for payment and related requirements which must be met in order for a Title XIX nursing facility patient to be classified for reimbursement under NF—Infectious Disease for methicillin-resistant staphylococcus aureus (MRSA).

I. The following patient criteria for reimbursement of services under the Infectious Disease (MRSA) rate must be met to establish the need for care at this designation. These criteria are meant to be objective, self-explanatory and applicable to those patients seeking care at this designation. The patient shall:

A. be in the active acute phase of an infection with MRSA and exhibit clinical signs and symptoms of infection;

B. have an active infection as opposed to being a carrier (a person who is colonized with MRSA is without clinical manifestation);

C. require IV antibiotic therapy and/or current antibiotic treatment protocol as established or recommended by DHH-OPH given in the nursing facility or a hospital;

D. require comprehensive skilled nursing;

E. require that isolation procedures be initiated and maintained as the plan of care dictates.

II. Facilities seeking reimbursement for services to patients at this level care designation shall provide the following.

The facility shall:

A. meet the medical and nursing needs of residents in the active phase of MRSA infection and maintain documentation of such care;

B. have laboratory confirmation of a diagnosis of MRSA done by a laboratory certified by national standards. The report must clearly state whether or not MRSA is present in the specimen (a finding of just positive or negative is not acceptable);

C. collect specimen for culture utilizing acceptable techniques or make arrangements for this to be done by a laboratory. This shall be done as soon as the facility becomes aware of infection and includes but is not limited to drainage from skin lesions, wounds, blood, sputum, urine and aspirations;

D. institute isolation procedures immediately when a resident with indications of MRSA is admitted to the facility or there is an infection identified in house using the Center for Disease Control guidelines. These procedures shall be initiated even if the physician has not seen the resident or been contacted. These procedures shall be fully documented;

E. have physician orders for each patient that are specific to each patient's situation. Standing orders shall not be used

without the physician approval for each individual patient;

F. be expected to insure that IV vancomycin therapy and/or current antibiotic treatment protocols as established or recommended by DHH-OPH will be initiated under physician order when the MRSA has been identified in an active infection with tissue invasion. This therapy can be given within the hospital or in the nursing facility. Exceptions to vancomycin treatment may be made for debilitated and very aged patient(s), a history of sensitivity to this agent, and end stage renal disease. Any reason for exception to IV vancomycin therapy must be fully documented in the patient's chart;

G. provide IV therapy in the nursing home only with registered nurse coverage for 24 hours a day under a registered nurse employed by the facility and with appropriate laboratory monitoring;

H. provide continuous nursing assessment of any change in the patient status or therapy.

I. provide aggressive wound care and other indicated nursing care. This must be administered by nurses skilled in these procedures and documentation maintained;

J. provide social services by a masters level social worker and a registered dietician as dictated by the plan of care;

K. provide equipment, supplies and teaching necessary for significant others to visit the patients;

L. make the distinction between a carrier, a person who is colonized with MRSA and is without clinical manifestations and can transmit MRSA through direct contact and a person with a clinical diagnoses of MRSA;

M. evaluate an individual who is an asymptomatic carrier of MRSA with a complicating problem (example: tracheostomy, gastrostomy, colostomy) for need for IV vancomycin therapy;

N. have policy, procedures and ongoing education for enhanced universal quality assurance infection control;

O. be responsible for maintaining facility policies updated with current trends in infection control as outlined by the Center for Disease Control;

N. develop specific policies, practices and precautions for preventing transmission of infection in the facility for protection of patients and employees.

III. Examples of services for nursing facility patients with a clinical diagnosis of MRSA may include but are not limited to care of patients that demonstrate signs and symptoms compatible with tissue invasion locally or systemically as manifested by but not limited to: erythema, edema, cellulitis, abscessed furuncles, carbuncles, septicemia, osteomyelitis, purulent drainage, elevated white count, elevated temperature, wound infections, urinary infection, tissue invasion, wound care, IV therapy, complication of MRSA infection, isolation techniques and procedures.

IV. Facility Standards for Participation

A. The facility shall be currently enrolled to provide nursing facility services to provide the level of care designation for the treatment of methicillin-resistant staphylococcus aureus.

B. The facility shall sign the addendum to the Provider Agreement for participation in the NF—Infectious Disease (MRSA) level of care designation.

V. The following medical certification requirements must be met in addition to the Forms 90L and 148.

A. The facility data submission shall follow the guidelines published for the levels of care.

B. The following additional information requirements must be met:

1. date of onset of MRSA infection;
2. physicians' orders (specific to each patient's care relating to MRSA infection);
3. request for a change in level of care to provide treatment for MRSA;
4. laboratory reports verifying the diagnosis of infectious MRSA as opposed to a colonized diagnosis;
5. documentation (including physicians' progress notes, nursing assessments and nurses' notes) of clinical signs and symptoms of an active infectious process;
6. detailed description, including measurements, of the lesions on tissue involvement;
7. documentation that appropriate isolation procedures were carried out (description) from date of the level of care request.

VI. Reimbursement Requirements

A. The level of care change request must be approved.

B. Request for changes in the patient's level of care from the infectious MRSA level to the former level of care must be completed promptly.

C. The infectious disease reimbursement rate is not applicable to patients who are colonized or free of active infection or if the patient refuses treatment, and/or the attending physician refuses to initiate appropriate vancomycin IV therapy and/or current antibiotic treatment protocol as established or recommended by DHH-OPH.

D. The infectious disease reimbursement rate will be paid during the hospital stay.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley
Secretary

RULE

Department of Insurance
Commissioner of Insurance

Regulations 31 - Holding Company

Pursuant to the provisions of R.S. 49:950 et seq. and R.S. 22:1009, the Commissioner of Insurance has amended Regulation 31 in order to adopt provisions authorized by amendments made to the Insurance Holding Company System Regulatory Law by Act 811 of the 1992 Regular Legislative Session, R.S. 22:1001-1015. The new provisions are found in R.S. 22:1005.D and R.S. 22:1006.A(6)-(9).

The amendment made to §1005.D authorizes the commissioner by rule, regulation or order to modify the materiality standard which is what triggers a duty on the part

of insurers which are part of an insurance holding company system to report certain transactions as part of their Form B filings. The proposed revision to Regulation 31, Item 5 of Form B, adopts a materiality standard which exempts from the reporting requirements all transactions of less than \$25,000 and transactions in the amount of \$25,000 to \$250,000 unless such transaction involves .0075 of an insurer's admitted assets.

The amendment to §1006.A(6)-(9) imposes a requirement on insurers subject to the Insurance Holding Company System Regulatory Law to obtain prior approval from the commissioner before entering into certain transactions. The proposed revisions to the regulation adopts Section 16 and adds Form D, which is the form used to request approval from the commissioner. They also set forth the reporting requirements to be met when seeking prior approval for the transactions enumerated in R.S. 22:1006.A(6)-(9).

A copy of the regulation may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, phone 504-342-5015.

James H. "Jim" Brown
Commissioner

RULE

Department of Natural Resources
Office of the Secretary

Fee Assessment (LAC 43:I.1515)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Department of Natural Resources has amended LAC 43:I.1515 regarding the assessment of fees. The previous assessment was imposed on April 20, 1992.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Chapter 15. Administration of Fishermen's Gear Compensation Fund

§1515. Assessment of Fees

* * *

B. The balance in the Fishermen's Gear Compensation Fund is less than \$250,000 and, pursuant to R.S. 56:700.2, (as amended, Act 337 of 1991) an additional fee of \$500 will be assessed on each lessee of a state mineral lease and each grantee of a state pipeline right-of-way located in the coastal zone of Louisiana, effective April 20, 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.2.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 5:328 (October 1979), amended LR 9:15 (January 1983), LR 10:546 (July 1984), LR 11:1178 (December 1985), LR 12:602 (September 1986), LR 13:360 (June 1987), LR 15: 497 (June 1989), LR 16:320 (April 1990), LR 17:605 (June 1991), LR 18:117 (January 1992), LR 19: (April 1993).

John F. Ales
Secretary

RULE

**Department of Public Safety and Corrections
Office of the State Police
Transportation and Environmental Safety Section**

**Towing, Recovery, and Storage
(LAC 55:I.Chapter 19)**

The Department of Public Safety and Corrections has amended the current rules adopted pursuant to R.S. 32:1711 et seq., related to the towing, recovery, and storage rules and regulations.

The department has amended the rules pertaining to: the daily storage fees which may be charged to customers when their vehicles are in storage so that the rule is consistent with current state law; to include the maximum fees that the department may charge to towing or storage companies for providing them with the information required by R.S. 32:1719; to require the use of a flashing or rotating amber beacon on tow trucks when towing vehicles; and to require an invoice format that indicates signatory authorization by the vehicle's owner for specific services rendered, such as towing and or vehicular repair.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19. Towing, Recovery, and Storage Rules and Regulations

§1907. Definitions

Covered Storage—continuous covering which adequately protects a vehicle from the elements. This includes but is not limited to a tarpaulin or similar covering which protects the vehicle and its interior from rain, dew, moisture, etc.

Inside Storage—continuous storage in or under a fixed structure which adequately protects a vehicle from the elements on all sides of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19: (April 1993).

§1919. General Tow Truck Lighting and Equipment

B. All tow trucks, except slideback recovery vehicles when they are transporting a vehicle on their beds, shall be equipped with at least one amber rotating or flashing beacon visible for 360 degrees at a distance of 1000 feet under normal atmospheric conditions at night.

1. While at the scene of an accident or disabled vehicle or when actually towing a vehicle, a tow truck operator shall illuminate or cause to be illuminated the amber rotating or flashing beacon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19: (April 1993).

§1939. Towing/Storage Facility Business Practices

A.1.-2. ...

3.a. Any invoice, bill, statement, authorization or other form utilized by a towing company, which is to be signed by the owner (or agent) of a vehicle to be towed, must be of a format approved by the department. This form must clearly denote what service is being authorized by signature. That is, there will be a separate signature line which merely authorizes the towing of the vehicle and another signature line to authorize any repairs to the vehicle.

b. No repairs shall be performed upon any vehicle unless there is an explicit signed written agreement authorizing such repairs.

c. Towing companies must submit a sample copy of their invoices to the Towing and Recovery Unit to be kept on file there. Any invoice which does not meet the criteria outlined above will be in violation of these regulations and any charges for services on an unauthorized invoice will be forfeited. Towing companies will have 60 days from the effective date of these rules to furnish copies of invoices required herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19: (April 1993).

§1945. Storage Rates

B.2. Maximum daily fee for covered storage: \$10 per vehicle as required by law.

3. Maximum daily fee for inside storage: \$12 per vehicle as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19: (April 1993).

§1947. Notification to Department of Public Safety and Corrections

C. The department may charge an administrative fee of \$9.50 to process the information exchange required in Subsection A above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19: (April 1993).

Colonel Paul W. Fontenot
Deputy Secretary

RULE

Department of Social Services Office of Community Services

Child Protection Investigation Report Acceptance (LAC 67:V.1301)

The Department of Social Services, Office of Community Services, adopts the following rule in the Child Protection Investigation Program, in order to set priorities for case response and allocate staff resources to cases identified by reporters as presenting immediate substantial risk of harm to children.

An emergency rule was published in the November 20, 1992 *Louisiana Register* pages 1246-1247.

The Department of Social Services, Office of Community Services (OCS), hereby amends the rule entitled "Child Protective Services Prioritization" published in the *Louisiana Register*, Vol. 17, No. 4, April 20, 1991, pages 387-388 by deleting Part I, Prioritization and Acceptance of Reports of Child Abuse and Neglect. Part II, Time Limits for Acceptance of Reports, remains in effect. OCS withdraws the notice of intent entitled "Child Protective Services Prioritization", published in the *Louisiana Register*, Vol. 18, No. 3, March 20, 1992, Pages 316-319.

The Department of Social Services, Office of Community Services, published an emergency rule in the *Louisiana Register*, Vol. 18, No. 7, July 20, 1992, on pages 683-684, concerning child protective services prioritization. This emergency rule which excluded low risk cases for acceptance for investigation will expire with the declaration of this new rule. The department has subsequently conducted statewide public hearings on the rule. Public input elicited by the public hearings has been considered in the development of this rule.

The 356 persons who attended and registered at the eight public hearings across the state will receive a copy of the tabulated results of both the written and verbal comments when completely transcribed. Any other interested person may receive the same information by making a written request to Brenda Kelley, Assistant Secretary, OCS, Box 3318, Baton Rouge, Louisiana 70821.

Title 67

SOCIAL SERVICES

Part V. Community Services

Chapter 13. Intake

§1301. Child Protection Investigation Report Acceptance

A. Reports will be assigned for investigation when the circumstances of the report indicate either:

1. a cause to believe by the reporter that substantial risk of harm to the child is present and the child's physical, mental, or emotional health is seriously endangered as a result; or
2. the reporter has cause to believe that abuse or neglect has already occurred.

B. Reports of abuse and/or neglect which provide first hand information of an injury, or of evidence of an injury to a child, such as personal observation of photographs, names of

witnesses, medical reports, or police reports, which cause a reporter to believe that a child has been injured or is at substantial risk of injury through the action or inaction of the child's caretaker will be investigated. It is important to understand that in all cases the reported circumstances of the child, such as, age, health, current condition, and the past history of the family and alleged perpetrator, such as access to the victim, history of violence or neglect, and parental willingness and/or ability to protect the child, could add information that will either establish or weaken the reason to believe that immediate and substantial risk of harm is likely to be present.

C. Response Time. The reports classified as presenting low risk to the child with no indication of immediate substantial harm alleged will be assigned a response time of up to 10 working days from the date the report was received.

D. Anonymous Reports

1. Reports of alleged child abuse and neglect will be accepted from anonymous reporters.

2. OCS intake staff shall attempt to obtain the reporter's name and address so that follow up contacts are possible in order to clarify information contained in the report and to improve the assessment of risk to the child. The reporter shall be informed of the confidentiality of the reporter's identity and the legal protection from civil or criminal liability for reporters who report in good faith.

E. Bad Faith Reports

1. At any time when OCS staff has reason to believe that a report of child abuse and/or neglect has been made in bad faith, all available information shall be turned over to the district attorney for review.

2. This action would be taken when there is evidence that the reporter made a report known to be false or with reckless disregard for the truth of the report.

F. Residential Care of Children in State Custody. In order to provide some workload relief for child protection and foster care staff in the Office of Community Services, the positions assigned to the Gary W. Program will be transitioned consistent with the federal court's approval of conclusion of OCS activities in the Gary W. case, into monitoring and strengthening of residential foster care programs to prevent occurrence in Louisiana of abusive or neglectful conditions for foster children which resulted in the Gary W. judgment against the state of Louisiana.

G. Nonreports

1. According to the Guidelines for a Model System of Protective Services established by the National Association of Public Child Welfare Administrators, child protective services is a specialized field of child welfare which is not an appropriate service for all child and family-related problems. These guidelines have been used to assist staff in making a determination of those situations which do not constitute a report of child abuse and/or neglect. Response from the public during the recent hearings indicated that the majority of participants were in concurrence with these decisions.

2. Following is a listing of nonreports of child abuse and/or neglect. Brief explanations are included for clarity. If there is a need for medical, mental health, social, or other

services to be provided to the child, his/her family, or the caretaker, appropriate referrals for such services will be made:

- a. death of a child without surviving children in home (information accepted for data collection on child deaths);
- b. sexual activity with a sibling or minor perpetrator with no alleged parental/caretaker culpability;
- c. sexual enticement/harassment and unspecified sexual abuse without a specific allegation of sexual abuse by caretaker or parent;
- d. venereal disease in a child age 13 or older without a specific allegation of sexual abuse by caretaker/parent;
- e. abandonment of a teenager whose parents want the agency to take custody due to conflict/behavior and other unspecific family or behavior problem which does not include abuse or neglect;
- f. clothing inadequate which does not seriously endanger life or health of the child;
- g. dependency due to the substance abuse or mental/physical limitation of a parent which does not incapacitate them from providing minimally acceptable care;
- h. drug/alcohol abuse by a teenager with or without parental permission;
- i. educational neglect reports shall be referred to the local school board which is charged under Louisiana law with responsibility for enforcing compulsory school attendance;
- j. food inadequate when the reporter expresses concern about the family dietary choices which do not seriously endanger the development, health, or life of a child;
- k. lack of supervision of a teenager 13 years or older unless mental capacity, physical condition or situational factors indicate serious threat to life or health of the child;
- l. medical neglect with no strong likelihood of serious consequences such as failure to provide corrective shoes, glasses, or orthodontia;
- m. shelter inadequate which does not seriously endanger the life or health of a child.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services LR 17:387 (April 1991), amended LR 18:1246 (November 1991), repromulgated LR 19:165, LR 19: (April 1993).

Gloria Bryant-Banks
Secretary

RULE

Department of Social Services Office of Family Support

Job Opportunities and Basic Skills Training Program (LAC 67:III.Chapter 29 and 31)

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Chapter 29, Job Opportunities and Basic Skills Training Program and §3101, Release of Confidential Information.

This action is necessary to reorganize the existing sections for purposes of clarity and correctness. The agency is also publishing information on maximum payments allowed for support services that were established when the program was implemented.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 5. Job Opportunities and Basic Skills Training Program

Chapter 29. Organization

Subchapter A. Designation and Authority of State Agency

§2901. General Authority

Effective October, 1990, the Department of Social Services, Office of Family Support, implemented the Job Opportunities and Basic Skills (JOBS) Training Program, which is designed to assist recipients of Aid to Families with Dependent Children (AFDC) to become self-sufficient by providing needed employment-related activities and support services. The JOBS program of Louisiana is known as Project Independence.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250 et seq. and R.S. 46:450 et seq.

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 19: (April 1993).

§2902. Implementation

A. Initial Implementation Parishes. The JOBS program was implemented effective October 1, 1990 in the following parishes: Caddo, Calcasieu, East Baton Rouge, Iberia, Lincoln, Orleans, Ouachita, Pointe Coupee, St. Charles and Vernon. These 10 parishes contain 48 percent of the state's current AFDC caseload. They also represent both small and large and urban and rural parishes, as well as the parishes with the highest and lowest unemployment rates. At least one parish from each of the Office of Family Support's, eight administrative regions is included. Following a successful beginning in these parishes the state continued to phase in the program in the remaining parishes by October 1, 1992.

B. January 1992 Implementation Parishes. Project Independence was being implemented in the following parishes: Bossier, Concordia, Franklin, Grant, Jefferson (east and west bank offices), Lafayette, Rapides, St. Bernard, Terrebonne and West Baton Rouge. The program is being administered in these additional parishes in the same manner as in the 10 initial implementation parishes where it was established in October, 1990.

C. Final (October 1992) Implementation Parishes

1. Complete implementation of Project Independence has expanded to include the following parishes: Ascension, Lafourche, Livingston, St. John, St. Landry, St. Martin, St. Tammany, and Tangipahoa. The program is being administered in these additional parishes in the same manner as in the 20 parishes where it is currently operational.

2. Minimal implementation of Project Independence has been done in the following parishes: Acadia, Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, Evangeline, East

Carroll, East Feliciana, Iberville, Jackson, Jefferson Davis, LaSalle, Madison, Morehouse, Natchitoches, Plaquemines, Red River, Richland, Sabine, St. Helena, St. James, St. Mary, Tensas, Union, Vermilion, Washington, Webster, West Carroll, West Feliciana, and Winn. A minimal program includes high school or equivalent education, either on-the-job training or job search, and information and referral to employment services.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.0 and R.S. 46:451 et seq.

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 17:1227 (December 1991), LR 18:967 (September 1992), LR 19: (April 1993).

§2903. Program Administration

A. Responsibilities of Office of Family Support

1. The JOBS program is administered by OFS state office, regional and parish staff.

2. The Department of Social Services implements a case management system through the newly created positions of case managers in each OFS parish office to assist JOBS participants in their efforts to become economically independent. Case managers: assess the participant's family circumstances; education and training status and level of job readiness; negotiate with the participant an employability plan that is realistic and achievable; provide positive intervention and act as participant advocate to maximize effectiveness of the program; select and arrange for appropriate JOBS program component participation; and monitor program activities.

B. Coordination with Other Service Providers. To maximize the potential that the JOBS program offers to AFDC recipients the Department of Social Services, coordinates with the Departments of Health and Hospitals, Labor, Education and Economic Development, as well as other providers of program components and services.

C. Louisiana implements a grievance procedure, as mandated by federal regulations at 45 CFR 251.4, for resolving displacement complaints by regular employees or their representatives relating to JOBS participants. Also, a grievance procedure was implemented in accordance with federal regulations at 45 CFR 251.5 for resolving complaints by or on behalf of JOBS participants in a work-related program or activity. This grievance procedure hears complaints relating to on-the-job working conditions, workers' compensation coverage and wage rates used to calculate the hours of participation required of participants in the Community Work Experience Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33, R.S. 460.3(A)(3), R.S. 46:453(B), 45 CFR 251.4 and 45 CFR 251.5.

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 17:646 (July 1991), LR 17:973 (October 1991), LR 19: (April 1993).

Subchapter B. Participation

§2910. Individual Participation Requirements

All AFDC recipients are mandatory participants unless

determined exempt in accordance with 45 CFR 250.30 or 250.33.

1. Regulations at 45 CFR 250.30 (b)(9)(i) mandate that all non-exempt applicants and recipients with children over age three, or an age less than three but not less than one, participate in the JOBS program as an eligibility condition for receipt of AFDC benefits. Louisiana exercises the option to require participation of parents with children over age one. This age limitation is overridden in the case of the custodial parent under age 20 who has not completed high school, since the legislation requires that such an individual participate in the education component of the program regardless of the age of the dependent child.

2. Regulations at 45 CFR 250.33 require participation of at least one parent in any family eligible for AFDC by reason of the unemployment of the parent who is the principal wage earner. Louisiana exercises the option to require participation of both parents unless one or both of them meet exemption criteria.

3. Any parent under the age of 25 in a AFDC-Unemployed Parent (AFDC-UP) case, who has not completed high school or an equivalent course of education, is allowed to meet the 16-hour per week work requirement by participating in educational activities as defined at 45 CFR 250.44(a). Additionally, the second parent in any AFDC-UP case, regardless of the age of that parent, may be placed in an educational component provided the first parent is participating 16 hours per week in a work activity or, if under 25 without a high school or equivalent education, in educational activities.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 250.33, and 250.44.

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 18:80 (January 1992), LR 19: (April 1993).

§2911. Failure to Participate and Conflict Resolution

A. Failure to participate in the JOBS program without good cause will result in progressive levels of sanctioning in accordance with 45 CFR 250.34.

B. Participant-requested conciliation is limited to one time per component.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.34 and 250.36, and R.S. 460.3(A)(3).

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: (April 1993).

Subchapter C. Activities and Services

§2916. Program Components

Program components are the employment-related activities that may be provided to a participant:

1. education;
2. job skills training;
3. job readiness training;
4. job development and placement;
5. job search;
6. on the job training;
7. community work experience program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR 250.63.

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 17:1227 (December 1991), LR 19: (April 1993).

§2917. Support Services

Support services include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Payment can be authorized for care in Class A centers, registered homes or in the child's home.

a. Participants with children in family child day care homes that care for only related children shall be eligible for

reimbursement of child care expenses upon receipt of the initial application to become a registered home. However, if such application is subsequently disapproved following inspection by the state fire marshal, the participant is not eligible for further reimbursement until notification of registration approval is received.

b. Child Care Payment Rates

i. The following is the Standard Rate Schedule for payment for child care services provided to the children of Project Independence participants. The statewide limit is established as the maximum amount allowable based upon the provider type, age of child, and the type of care provided.

STANDARD RATE SCHEDULE
Regular Care

CHILD UNDER AGE 2				CHILD AGE 2 AND OLDER				
CLASS A CENTERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	\$238.30	Monthly	\$119.15	Monthly	\$216.50	Monthly	\$108.25
Weekly	55.00	Weekly	27.50	Weekly	50.00	Weekly	25.00	
Daily	11.00	Daily	5.50	Daily	10.00	Daily	5.00	
Hourly	1.38	Hourly	1.38	Hourly	1.25	Hourly	1.25	
ALL OTHER PROVIDERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	\$216.50	Monthly	\$108.25	Monthly	\$216.50	Monthly	\$108.25
Weekly	50.00	Weekly	25.00	Weekly	50.00	Weekly	25.00	
Daily	10.00	Daily	5.00	Daily	10.00	Daily	5.00	
Hourly	1.25	Hourly	1.25	Hourly	1.25	Hourly	1.25	

ii. All rates herein are established as maximum allowable amounts; payments will be the provider's actual charges or the maximum rate, whichever is less. Daily rates are based on eight hours per day; weekly rates are based on five days per week; monthly rates are based on 4.333 weeks per month. Part-time care is considered to be 20 hours per week or less. Part-week care is considered to be fewer than five days per week, paid at the daily rate. (Example: A Project Independence participant in a component that is scheduled for three days per week would be eligible for the days of participation only.)

2. Transportation as support service:

a. payments may not exceed \$500 per participant per month;

b. participants who become ineligible for AFDC due to earned income are eligible for a transportation payment of \$33.33 1/3 per month, this paid as a one-time allotment of \$100 for the 90-day period following ineligibility.

3. Other supportive services:

a. payment of union dues not to exceed \$100;
b. payments not to exceed a combined total of \$100 per fiscal year may be made for certain costs deemed necessary such as eyeglasses, uniforms, and safety equipment as noted at Section 4.1 of the Supportive Services State Plan;

c. the purchase of refreshments at a maximum cost of \$1 per day per participant is allowed for in-house component delivery. Supplies will be purchased in bulk from vendors following state procurement rules and regulations, and utilized in accordance with the projected numbers of participants and days of activities the supplies are to cover.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 250, 255, 257, and R.S. 46:456 and 457

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 and 748 (July 1992), LR 18:1268 (November 1992), LR 19: (April 1993).

Chapter 31. Confidentiality

§3101. Release of Confidential Information

See Subpart 1 (General Administrative Procedures) Chapter 1 (Confidentiality), §101. Release of Confidential Information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(A), (B), (C), (E), (F)(4), and (H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, in LR 16:321 (April 1990).

Gloria Bryant-Banks
Secretary

RULE

**Department of Transportation and Development
Office of Compliance Programs**

Minority Participation Program (LAC 70:XIX.Chapter 1)

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 has adopted a rule entitled "Minority Participation Program", in accordance with the provisions of Executive Order EWE 92-28, R.S. 47:820.51 and R.S. 48:234. This rule establishes participation in state-funded construction projects administered by DOTD, including certification criteria, procedures for project selection, bid requirements and contract administration procedures.

Copies of this rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, (504) 342-5015.

Jude W.P. Patin
Secretary

RULE

**Department of Transportation and Development
Office of Real Estate**

**Relocation and Acquisition Policies
(LAC 70:XVII.Chapter 1)**

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 has adopted the rule entitled "Uniform Relocation Assistance and Real Property Acquisition for Federally and Federally Assisted Programs and State Programs", in accordance with the provisions of R.S. 38:3107. The text of the rule appears in its entirety in the emergency rule section of the March, 1989 *Louisiana Register*. Copies may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, (504) 342-5015.

Jude W. P. Patin
Secretary

RULE

**Department of Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

Disability Application

The Board of Trustees of the Louisiana State Employees' Retirement System, at its meeting on November 17, 1992, adopted the following rule concerning procedures for processing disability applications. These procedures, effective January 1, 1993, were published as an emergency rule in the December, 1992 issue of the *Louisiana Register*.

Procedures for Processing Disability Applications

1. Receive application for disability retirement:
 - a. make sure applicant is eligible;
 - b. review application (Form ER-3) for completeness;
 - c. review examining physician's report for completeness and to ensure that he recommends disability retirement;
 - d. review disability report by immediate supervisor and report by human resource administrator (Form ER-3A) for completeness.

If applicant is not eligible, they will be notified immediately by letter. If the application or any of the required forms are incomplete or missing, return them to the appropriate person for completion.

2. Determine type of disability and the appropriate disability board doctor for the examination:
 - a. if the condition is terminal, forward medical records to the doctor for review and recommendation;
 - b. if the condition is not terminal, contact the appropriate doctor to schedule an appointment. Notify the applicant of the appointment date and time in writing.

3. Receive the written recommendation from the doctor:
 - a. review the doctor's recommendation and determine if the application should be approved, disapproved or deferred. Approved applications will be unconditional or for a specified time period based on the individual situation. In all cases, the recommendation of the doctor will determine if the application is approved or disapproved. If the doctor's recommendation is unclear, the file will be forwarded to the retirement benefits manager for review;

b. if the retirement benefits manager cannot make a clear determination, the assistant director, retirement benefits manager and retirement benefits supervisor will meet to discuss the case and make a determination. The doctor will be contacted for clarification or another doctor will be consulted when necessary;

- c. any unusual cases will be presented to the board for their review and determination.

4. When the final determination is made, the applicant will be notified in writing and a copy will be forwarded to the agency.

5. The approved applicants will be listed on the monthly retirement supplement which is presented to the board for approval.

6. Twice annually, in June and December, the board will receive a summary report of the number of applications

received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants.

Thomas D. Burbank, Jr.
Executive Director

RULE

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Election of Active Member Trustees

In accordance with R.S. 11:511 and 515, notice is hereby given that the Louisiana State Employees' Retirement System adopts the following rules to govern the election of trustees who are active members of the system.

Rules for Election of Active Member Trustees

I. General Schedule

Second Tuesday in July — Nominations closed.

Friday following second Tuesday in July — Drawing to determine position on ballot.

Fourth Friday in October — Last day that information on candidates and ballots are to be mailed to agencies.

First Friday in December — All ballots returned to system by close of business (4:30 p.m.).

Second Tuesday in December — Ballots counted and verified.

Regular December meeting — Board accepts certified ballot count and authorizes publication of results.

Regular January meeting — Elected members take position on board.

II. Election Rules

A. An active member candidate for a vacant position on the Board of Trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the second Monday in July, the date on which nominations close. The Board of Trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures must be accompanied by their Social Security number. All nominations for the Board of Trustees election must be in the office of the Retirement System no later than the second Tuesday in July, close of business (4:30 p.m.).

B. No department may be represented by more than two trustees. Department, for board election purposes, means the 20 departments of the Executive Branch of State government as defined in R.S. 36:4(A), the Office of the Governor, the Office of the Lieutenant Governor, the Judicial Branch, and the Legislative Branch of state government.

C. There will be a drawing at 11 a.m. on the Friday following the second Tuesday in July, in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA to determine the position each candidate will have on the ballot. All candidates are invited to attend or send a representative to the drawing, but it is not mandatory.

D. Ballots will be distributed to each department (agency) by the fourth Friday in October, with a self-addressed envelope for returning the ballot. Every active (contributing) member appearing on the May Monthly Retirement Reports will receive a ballot for voting. Participants in the DROP Program will vote in the active member election and will receive ballots mailed to their homes. The signature of the member must appear on the official ballot return envelope for comparison with the records of the system. Those envelopes received as postmarked or date-stamped-in will be placed in a ballot file for counting by the ballot counting committee, thus assuring that only eligible members vote and an absolute secret ballot will be held. Ballot envelopes received without the name/Social Security number sticker provided by the Retirement System, ballot envelopes that do not bear the member's proper signature (not printed), and ballots received after the close of business on the first Friday in December will be rejected. Ballots must be returned to the Retirement System office at 8401 United Plaza Boulevard, First Floor, Box 44213, Baton Rouge, LA 70804.

E. Each candidate for the office of Trustee may name no more than two members to the ballot counting committee and the director shall name such additional members as necessary to complete the count. All valid ballots will be counted on the second Tuesday in December and the envelopes destroyed. The ballot counting committee shall submit a written report of the election results to the Board of Trustees no later than the regular December meeting of the Board of Trustees.

F. Upon receipt of the results of the election, the Board of Trustees will promulgate the election and notify the successful candidates of their election and also notify the Secretary of State in order that the candidates may take their oath of office and file it with the Secretary of State within the time specified by law.

Thomas D. Burbank, Jr.
Executive Director

RULE

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Election of Retired Member Trustees

In accordance with R.S. 11:511 and 515, notice is hereby given that the Louisiana State Employees' Retirement System adopts the following rules to govern the election of trustees who are retired members of the system.

Rules for Election of Retired Member Trustees

I. General Schedule

Second Tuesday in July — Nominations closed.

Friday following second Tuesday in July — Drawing to determine position on ballot.

Fourth Friday in October — Last day that information on candidates and ballots are to be mailed to retirees.

First Friday in December — All ballots returned to system by close of business (4:30 p.m.).

Second Tuesday in December — Ballots counted and verified.

Regular December meeting — Board accepts certified ballot count and authorizes publication of results.

Regular January meeting — Elected members take positions on board.

II. Election Rules

A. A candidate for a vacant position of retired member trustee on the Board of Trustees must be a retired member of the system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) by the date on which nominations close. The Board of Trustees shall accept the name and Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by their Social Security number. All nominations for the Board of Trustees election must be in the office of the Retirement System no later than the second Tuesday in July, close of business (4:30 p.m.).

B. For purposes of this rule, the term "retired member" shall not include any person still employed by the state but treated as retired under the Deferred Retirement Option Plan.

C. There will be a drawing on the Friday following the second Tuesday in July at 11 a.m. in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA to determine the position each candidate will have on the ballot. All candidates are invited to attend or send a representative to the drawing, but it is not mandatory.

D. Ballots will be distributed to each retired member by the fourth Friday in October, with a self-addressed envelope for returning the ballot. Every retiree member appearing on the May Retiree Master List will receive a ballot for voting. Since two retired member trustees are to be elected, each retiree may vote for two candidates. The signature of the retired member must appear on the official ballot return envelope for comparison with the records of the system. Those envelopes received as postmarked or date-stamped-in will be placed in a ballot file for counting by the ballot counting committee, thus assuring that only eligible retired members vote and an absolute secret ballot will be held. Ballot envelopes received without the name/Social Security number sticker provided by the Retirement System, ballot envelopes that do not bear the retired member's proper signature (not printed), and ballots received after the close of business (4:30 p.m.) on the first Friday in December, will be rejected. Ballots must be returned to the Retirement System office at 8401 United Plaza Boulevard, First Floor, Box 44213, Baton Rouge, LA 70804.

E. Each candidate for the office of trustee may name no more than two members to the ballot counting committee and the director shall name such additional members as necessary to complete the count. All valid ballots will be counted on the second Tuesday in December and the envelopes destroyed. The ballot counting committee shall submit a written report of the election results to the Board of Trustees no later than the regular December meeting of the Board of Trustees.

F. Upon receipt of the results of the election, the Board of Trustees will promulgate the election and notify the successful candidates of their election and also notify the Secretary of State in order that the candidates may take their oath of office and file it with the Secretary of State within the time specified by law.

Thomas D. Burbank, Jr.
Executive Director

RULE

Department of Treasury Board of Trustees of the State Employees Group Benefits Program

Fee Schedule Modifications

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Trustees of the State Employees Group Benefits Program has amended the fee schedule, effective October 8, 1992.

Amendment of the fee schedule is mandated by R.S. 42:851.5. This amendment is necessary in order to adjust the amounts payable for those fee schedule codes that were identified as incorrect. Failure to adjust these codes to adequately reimburse medical providers could result in services being denied to members of the State Employees Group Benefits Program, resulting in imminent peril to the public health, safety, and welfare.

A copy of this fee schedule can be viewed at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802 and also at the Office of the State Employees Group Benefits Program, 5825 Florida Boulevard, Baton Rouge, LA.

James R. Plaisance
Executive Director

RULE

Department of Wildlife and Fisheries Office of Fisheries

Freshwater Mussel (LAC 76:VII.161)

The secretary of the Department of Wildlife and Fisheries hereby adopts the following rule to establish freshwater mussel harvest regulations.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§161. Freshwater Mussel Harvest

A. Commercial Harvest

1. Permits

a. In addition to a commercial fishing license, all mussel harvesters must obtain a mussel harvester's permit issued by the department prior to initiation of commercial harvesting.

b. The secretary of the department shall have the authority to limit the number of mussel harvester permits, cease issuance of new permits, or close the season entirely if it is deemed necessary to protect the mussel resource.

c. In addition to a wholesale/retail dealer's license, all mussel buyers must obtain a mussel buyer's permit issued by the department.

2. Fees

a. An annual permit fee of \$100 for resident mussel fishermen and \$400 for non-resident mussel fishermen will accompany the permit application. This fee will be applicable for one calendar year. If the permit application is disapproved, the fee will be refunded to the applicant.

b. An annual permit fee of \$150 for resident mussel buyers and \$600 for non-resident mussel buyers will accompany the permit application. This fee will be applicable for one calendar year. If the permit application is disapproved, the fee will be refunded to the applicant.

3. Gear. Mussels shall be harvested by hand only, with or without underwater breathing apparatus.

4. Species for Commercial Harvest

a. Only the following taxa may be legally harvested:

washboard	<i>Megaoloniais nervosa</i>
pimpleback	<i>Quadrula spp.</i>
three ridge	<i>Amblyma plicata</i>
ebony shell	<i>Fusconaia ebena</i>
bluefer	<i>Potamilus (Proptera) purpuratus</i>
Asian clam	<i>Corbicula fluminea</i>

b. Only specimens larger than the following minimum sizes shall be harvested:

washboard	4 inches
three ridge and bluefer	3 inches
pimpleback and ebony shell	2 3/4 inches
Asian clam	no size limit

Minimum size will be measured by passing the specimen through a ring with the inside diameter equivalent to the minimum size given for each taxa. Only those individuals that will not pass through the ring (from any angle) may be

retained. Any individuals that pass through the rings must be immediately returned to the original mussel bed unharmed.

5. Timing of Harvest. Mussels may be harvested year-round between official sunrise and official sunset; except that, commercial harvest of mussels will be closed on Saturdays and Sundays of each week.

6. Areas Open to Harvest

a. Unless otherwise stated, all publicly owned water bottoms in Louisiana outside of officially recognized saltwater areas (R.S. 56:322A and 322B) are open to harvest.

b. Because of the presence of threatened or endangered species of mussels, commercial mussel harvest is prohibited in the following areas:

i. Amite River from the junction with Bayou Manchac to the Mississippi state line.

ii. All of Rapides and Grant Parishes except the main channel of the Red River.

c. Additional areas may be closed by the secretary of the department if deemed necessary to protect local mussel populations.

7. Reporting

a. Commercial mussel harvesters and mussel buyers must file reports to the department of harvesting or buying activities conducted under their mussel permit on forms furnished by the department. Time and frequency of filing reports shall be specified on the permit and shall be subject to change by the department upon written notification to the commercial harvester or buyer. Written notification of changes and reporting requirements sent by the department to commercial harvesters or buyers at the address on permittee's most recent application or permit shall become part of the harvester's permit and must be maintained by the permittee along with the permit.

b. Commercial harvesters must contact the department and provide information on harvesting location at least 24 hours prior to the first day of harvesting activities on that location. The harvester must also notify the department within 24 hours when harvesting at that location has been completed. Information on harvesting locations will be given to the department but will be kept confidential.

8. Special Restrictions

a. Meats shall not be used or sold for human consumption.

b. Mussels shall be transferred whole (unopened with meat) from the collection site directly to an in-state buyer for processing.

c. Buyer must render meats unsuitable for human consumption then dispose of meats, as per Department of Environmental Quality regulations for disposal of solid waste.

d. If the mussel harvester prefers to personally process the mussels rather than sell whole mussels to a buyer, approval must be first obtained from the department. Meat disposal requirements will be the same for buyers under special restrictions as in Subparagraph c.

9. Penalties. Failure to abide by the above rules shall result in revocation of permit and forfeiture of future permits for a three-year period after which issuance or denial of a permit will be at the discretion of the secretary of the department.

B. Recreational Harvest

1. General Harvest Restrictions

a. Freshwater mussels may be taken year-round between official sunrise and official sunset for recreational purposes with a basic recreational fishing license. The daily possession limit is 50 whole mussels, or 100 separate valves, of one species or in aggregate.

b. Mussels shall be harvested by hand only; no diving with underwater breathing apparatus will be permitted.

c. No size limits will apply to recreational harvest.

d. All species of freshwater mussels may be harvested for recreational purposes except that no live or dead specimens of inflated heelsplitter (*Potamilus [Proptera] inflatus*) or Louisiana pearlshell (*Margaritifera hembeli*) may be harvested or intentionally disturbed.

2. Areas Open to Harvest

a. Unless otherwise stated, all public water bottoms in Louisiana outside of officially recognized saltwater areas (R.S. 56:322A and 322B) are open to harvest.

b. Because of the presence of threatened or endangered species of mussels, recreational mussel harvest is prohibited in the following areas:

i. Amite River from the junction with Bayou Manchac to the Mississippi state line;

ii. all of Rapides and Grant Parishes except the main channel of the Red River.

c. Additional areas may be closed by the secretary of the department if deemed necessary to protect local mussel populations.

3. Special Restrictions. Meats shall not be used for human consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19: (April 1993).

Joe L. Herring
Secretary

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Sturgeon (LAC 76:VII.145)

The secretary of the Department of Wildlife and Fisheries hereby adopts the rule governing the prohibition on the taking and possessing of sturgeon.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§145. Sturgeon

The taking or possession of Atlantic sturgeon, *Acipenser oxyrinchus*; Pallid Sturgeon, *Scaphirhynchus albus*; shovelnose sturgeon, *S. platyrhynchus*; or their body parts or eggs (roe) is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:317.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:421 (May 1990), amended Office of Fisheries, LR 19: (April 1993).

Joe L. Herring
Secretary

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Triploid Grass Carp (LAC 76:VII.901)

The secretary of the Department of Wildlife and Fisheries does hereby amend the rule governing the importation, transportation, possession, disposal and sale of live triploid grass carp for aquatic plant control in private and public waters.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture - Exotic Species

§901. Triploid Grass Carp

A. Triploid Grass Carp Possession and Transportation for Aquatic Plant Control; Permit Required

1. No person, firm or corporation shall at any time possess, sell or cause to be transported into this state, triploid grass carp (*Ctenopharyngodon idella*), except in accordance with a permit issued under and in compliance with the following regulations.

The following regulations govern the importation, transportation, possession, disposal and sale of live triploid grass carp for aquatic plant control in private and public waters, including ponds on public golf courses, municipal water treatment plants, parks and zoos. Nothing contained herein shall be construed to restrict or prevent the department from conducting bona-fide research studies and fish and aquatic plant management programs as authorized by law or regulation.

2. Definitions

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

Permittee—organization that possesses a valid Louisiana triploid grass carp permit. A permittee can only be a natural person. A permittee may represent himself, a business, corporation or organization. The permittee is responsible for compliance with all stipulations in the permit.

Secretary—the secretary of the Louisiana Department of Wildlife and Fisheries.

Triploid Grass Carp—refers to *Ctenopharyngodon idella* fingerlings and larger individuals that are certified as triploid carp (3N chromosomes) by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department.

Triploid Grass Carp Possession and Transportation Permit—the official document that identifies the terms of and allows for the importation, transportation and possession of live triploid grass carp in Louisiana as approved by the secretary or his designee.

3. Triploid Grass Carp Habitat Management Request Procedures

a. Individuals wishing to import, transport or possess live triploid grass carp in Louisiana must first request a permit from the department through an application form furnished by the department.

b. The completed applications must be returned to the department, after which, department personnel will review the application and make an on-site inspection of the water body.

c. Upon completing the on-site inspection, the department personnel will make a final determination as to whether the applicant is in full compliance with all rules for the triploid grass carp management permit.

d. The secretary, or his designee, will notify the applicant in writing as to whether or not the permit has been granted and if not, the reasons therefore. In the event of disapproval, applicants may re-apply after meeting department requirements.

4. Rules on Transport of Triploid Grass Carp for Habitat Management

a. For each occurrence whereby the permittee wishes to import, transport or possess live triploid grass carp, the permittee must obtain prior written approval from the department using the following procedures.

i. Requests shall be made to the Permits Supervisor, Inland Fish Division, Louisiana Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

ii. Requests shall include:

(a). Louisiana triploid grass carp permit number or a copy of the permit

(b). route of transport

(c). date of transport

(d). time(s) of transport

(e). destination

(f). owner of transport vehicle

(g). total number of fish

(h). identification of seller and buyer

b. A bill of lading must accompany those individuals in possession of living triploid grass carp during transportation and shall include:

i. copy of the permittee's written approval as described in Subparagraph a above;

ii. date and approximate time of shipment;

iii. route of shipment;

iv. source of triploid grass carp (hatchery);

v. name, address and phone number of seller;

vi. name, address and phone number of buyer;

vii. copy of triploid certification;

viii. total number of fish;

ix. destination;

x. display the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than four inches high.

5. Rules Applicable to Triploid Grass Carp Stocking

a. Only approved waters may be stocked.

b. Site must not have any direct connections with any other stream or lake. Any site containment measures must be approved by Inland Fish Division biologists.

c. Site must have a vegetation problem documented by the department that interferes with either access, esthetics, recreation, health, drainage, agriculture, municipal or industrial utilization or management of the water body.

6. General Rules for Triploid Grass Carp Habitat Management

a. Prior to introductions, fish to be introduced must be certified as triploid grass carp by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department. Such certification must be furnished to and approved by the department prior to introduction of any fish into any waters of this state.

b. No fingerlings under six inches in total length or eggs or fry shall be imported, transported or possessed in Louisiana.

c. Permits are not transferable from person to person or from site location to site location.

d. No person may permit the release of live triploid grass carp into waters of Louisiana without the written approval of the secretary or his designee.

e. Applicant shall provide an adequate number of triploid grass carp to the department, at no cost to the department, upon request, to verify triploidy. Cost of any test deemed necessary by the department shall be borne by the permittee.

f. The applicant must agree to allow department officials or a department approved contractor to conduct unannounced random inspections of the transport vehicle, property, water body site and fish. Additionally, department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

g. The department shall approve final stocking rates for each applicant.

h. The department reserves the right to disapprove any permit application if, in the determination of the department, escape of triploid grass carp into the wild is a risk. If an escape incident occurs through either a meteorological event or structural failure, permit reapplications will receive a more critical review by the department.

i. Except in cases of mortality or unavoidable loss restocking will be permitted only at intervals of 2.5 years following the initial stocking.

j. The cost of an initial triploid grass carp permit shall be \$50 plus an additional fee for on-site inspection. The initial permit will be issued to cover a period of time ending with the calendar year following the date of the permit. Permits shall be renewed annually thereafter at a cost of \$25. No site inspection or site inspection fee shall be required for permit renewals.

k. A permittee will be charged an administrative fee of \$25 for each importation occurrence beginning with the second occurrence.

l. Qualified universities conducting research approved by the department shall be exempt from fee charges.

m. If a permittee terminates the use of triploid grass carp in the permitted water body, the permittee shall notify the department immediately and dispose of the triploid grass carp according to methods approved by the department.

n. In addition to all other legal remedies, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319(E).

o. Any permittee charged with violation of the above rules has a right to make a written response to the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s).

B. Sale of Live Triploid Grass Carp for Aquatic Plant Control; Permit Required

1. Definitions

Triploid Grass Carp Sales Permit—the official document that allows for the importation, transportation, possession and sale of live triploid grass carp in Louisiana as approved by the secretary or his designee.

Triploid Grass Carp Seller—a properly licensed fish farmer who possesses a triploid grass carp sales permit.

2. Rules

a. Individuals wishing to sell live triploid grass carp must first obtain a Triploid Grass Carp Sales Permit.

b. A triploid grass carp seller must be a properly licensed fish farmer.

c. A triploid grass carp seller is bound by the triploid grass carp possession and transportation regulations as stipulated in Subsection A above; except that:

i. the holder of a Triploid Grass Carp Sales Permit may sell live triploid grass carp;

ii. the Triploid Grass Carp Sales Permit serves in lieu of the Triploid Grass Carp Possession and Transportation Permit.

d. The holders of a Triploid Grass Carp Sales Permit may only sell triploid grass carp to holders of a valid Triploid Grass Carp Possession and Transportation Permit or a Triploid Grass Carp Sales Permit.

e. The initial Triploid Grass Carp Sales Permit will be issued to cover a period of time ending with the calendar year following the date of the permit. Permits shall be renewed annually thereafter. The cost of a triploid Grass Carp Sales Permit is \$250.

f. An additional fee for the initial inspection of facilities will be assessed and charged.

g. In addition to all other legal remedies, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All triploid grass carp shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, 56:319 and 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August 1991), amended LR 19: (April 1993).

Joe L. Herring
Secretary

RULE

**Department of Wildlife and Fisheries
Office of Wildlife**

Wild Louisiana Stamp (LAC 76:I.323.G)

(Editor's Note: A portion of the following rules, which appeared on pages 359 through 361 of the March 20, 1992 Louisiana Register, is being republished to correct a typographical error.)

Title 76

WILDLIFE AND FISHERIES

**Part I. Wildlife and Fisheries Commission
and Agencies Thereunder**

Chapter 3. Special Powers and Duties

Subchapter G. Wild Louisiana

§323. Wild Louisiana Stamp and Print Program

* * *

G. Eligibility. This art competition is open to all artists who are 18 years of age or older, except employees of the Louisiana Department of Wildlife and Fisheries and members of their immediate families.

* * *

AUTHORITY NOTE: Promulgated in accordance with Act 193 of the 1992 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 19:360 (March 1993), repromulgated LR 19: (April, 1993).

Joe L. Herring
Secretary

RULE

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

**King and Spanish Mackerel and Cobia Daily Take
(LAC 76:VII.327)**

The Louisiana Wildlife and Fisheries Commission does hereby amend the regulations concerning bag limits for king mackerel, spanish mackerel and cobia.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§327. Daily Take and Possession Limits of King and Spanish Mackerel and Cobia**

A. The recreational bag limit for possession of Spanish

mackerel (*Scomberomorus maculatus*) whether caught within or without the territorial waters of Louisiana shall be 10 fish per person, per day.

B. The recreational bag limit for possession of king mackerel (*Scomberomorus cavalla*) whether caught within or without the territorial waters of Louisiana shall be two fish per person, per day.

C. A person subject to a bag limit for Spanish or king mackerel may not possess during a single day, regardless of the number of trips or the duration of a trip, any king or Spanish mackerel in excess of such bag limit, except that a person who is on a trip that spans more than 24 hours may possess no more than two daily limits, provided such a trip is aboard a charter vessel or headboat, and (1) the vessel has two licensed operators aboard as required by the U.S. Coast Guard for trips over 12 hours, and (2) each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

D. The recreational and commercial bag limit for possession of cobia (*Rachycentron canadum*) whether caught within or without the territorial waters of Louisiana shall be two fish per person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:325.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989), amended LR 17:207 (February 1991), LR 19: (April 1993).

Bert H. Jones
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Seed Commission

Rice Certification Standards (LAC 7:XIII.Chapter 87)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:1433, notice is hereby given that the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission intends to amend LAC 7:XIII. 8735 and 8783.

Title 7 AGRICULTURE AND ANIMALS Part XIII. Seeds

Chapter 87. Rules and Regulations Pursuant to the Louisiana Seed Law

§8735. Seed Sampling

A. - E. ...

F. Resampling Policy

1. Except in special instances, as described below, only one sample shall be obtained from each certified lot:

a. When a certified seed lot fails certification requirements due to physical or mechanical purity factors, such as excess inert matter or weed seed, the seed may be reconditioned if the contaminants are separable. A complete purity analysis and germination test will be required on the reconditioned lot of seed. Certified seed rice which fails certification due to the presence of red rice seed in the sample shall be subject to the terms of Subparagraph e below.

b. - d. ...

e. When a certified seed rice lot fails certification requirements due to the presence of one red rice seed in the original four pound sample, then a second eight pound sample may be drawn from the lot. If one or more red rice seeds are found in the second sample, the lot will be disqualified on the basis of red rice content. If no red rice seed is found in the second sample, the lot would meet certification requirements. Certified seed rice whose original sample contains the presence of more than one red rice seed may not be re-sampled.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 19:

§8783. Rice Seed Certification Standards

A. Isolation Requirements

1. Fields offered for certification must be clearly separated from other fields by a ditch, levee, roadway, fence, or barren strip a minimum of 10 feet if the adjoining crop is the same variety and class.

2. In addition to the preceding regulations, the following isolation distances will pertain if the adjoining crop is a different class or different variety.

No. of Feet From Same Variety/Different Class Planted By

Ground		Air	
Drill	Broadcast	Right Angle	Parallel
10	10	1,320	10

No. of Feet From Other Varieties/All Classes Planted By

Ground		Air	
Drill	Broadcast	Right Angle	Parallel
20	100	1,320	100

3. Any part of the applicant's field or fields which are closer than these distances must be harvested prior to final

inspection or plowed up. Failure to comply with this requirement will disqualify the entire field.

B. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land requirement	1 yr.	1 yr.	1 yr.	1 yr.
Other varieties	None	None	10 plants per acre	25 plants per acre
*Harmful diseases	None	None	None	None
Noxious weeds: Red Rice (including Black Hull Rice)	None	None	None	1 plant per 10 acres
Spearhead	None	None	None	2 plants per acre
Curly Indigo	None	None	4 plants per acre	4 plants per acre
*Diseases seriously affecting quality of seed and transmissible by planting stock.				

C. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	98.00%	98.00%	98.00%	98.00%
Inert matter	2.00%	2.00%	2.00%	2.00%
Other crops, including other varieties	None	None	None	2 seed/ lb.
Off-color grains, if of similar size, quality and maturity	None	5 seed/lb.	10 seed/lb.	20 seed/lb.
Noxious weeds: Red Rice (including Black Hull Rice)	None	None	None	None**
Spearhead, Curly Indigo and Mexican Weed	None	None	None	None
Other weeds	0.05%	0.05%	0.05%	0.10%
Germination		80.00%	80.00%	80.00%
**Four pounds shall be hulled from each lot to determine red rice content.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:576 (November 1982), amended LR 9:201 (April 1983), LR 9:754 (November 1983), LR 10:495 (July 1984), repealed and readopted LR 12:825 (December 1986), amended LR 13:157 (March 1987), LR 13:233 (April 1987), LR 14: (September 1988), LR 14:694 (October 1988), amended LR 15:613 (August 1989), amended LR 19:

Mr. Benjy Rayburn, Assistant Director, Seed Programs will accept comments from any interested parties through Friday, July 2, 1993.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: SEED RICE CERTIFICATION STANDARDS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to state or local governmental groups is anticipated to result from the implementation of the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of the proposed rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Certified rice growers in Louisiana will be affected. Since standards will be tightened, the potential for certification disqualification is somewhat higher. Costs could be higher to maintain certification status. No additional paperwork or workload adjustments are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Certified Seed Rice growers in Louisiana will probably become more competitive with those of other states.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agro-Consumer Services
Agricultural Commodities Commission**

Mileage Fees (LAC 7:IX.14728)

The Department of Agriculture and Forestry advertises its intent to amend a rule revising LAC 7:IX.14728. This rule complies with R.S. 3:3401 et seq., and will change the fee charged for mileage by inspectors operating under the Agricultural Commodities Law to bring it in conformance with

Title 7
AGRICULTURE AND ANIMALS
Part XXVII. Agricultural Commodity Dealer and Warehouse

Chapter 147. Agricultural Commodities Commission
Subchapter E. Assessments and Fees
§14728. Fees: Amount, Time of Payment

C. Schedule of Fees:

3. Mileage shall be billed at the rate of 24 cents per mile traveled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 14:528 (August 1988), LR 19:

Interested persons may submit opinions, suggestions or data to Manning Broussard, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: MILEAGE FEES

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Postage costs in the amount of \$32.19 will be needed to implement the proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections in the form of mileage reimbursements will increase by 3.5 cents per mile traveled, from the 20.5 cents currently set to 24 cents per mile under the Division of Administration Policy and Procedure Memorandum No. 49, for an approximate total of \$350 per fiscal year.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The fee charged to licensed grain dealers will be increased from 20.5 cents per mile to 24 cents per mile.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is anticipated.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development
Licensing Board for Contractors

Rule Revisions
(LAC 46:XXIX.Chapters 1, 3, 5, 7, 9, 11 and 13)

At its meeting on October 15, 1992, the State Licensing Board for Contractors made a motion which unanimously passed to amend the following rules.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXIX. Contractors

Chapter 1. General Provisions

§101. Contractor's Record Keeping

A. . . .

B. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:135 (March 1982), LR 12:761 (November 1986), amended Department of Economic Development, State Licensing Board for Contractors, LR 16:601 (July 1990), LR 19:

§103. Disassociation of a Qualifying Party

A. When the qualifying party terminates employment with the licensee, the State Licensing Board for Contractors must be notified in writing, by the licensee, within 30 days of the disassociation and another party must qualify within 60 days of the disassociation or licensee will be subject to citation for suspension or revocation of license.

B. Failure to notify the board of the disassociation of a qualifying party constitutes a violation pursuant to R.S. 37:2158.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§107. Enforcement of Act and Rules

The board, pursuant to R.S. 37:2158 and R.S. 37:2161 may bring suit to enjoin violations of this Act and the executive director and/or his designated agent and/or the legal counsel for the board is hereby authorized to institute such suit on behalf of the board and to sign the verification of the petition for injunction and to do all things necessary in connection with the institution of such legal proceedings when so directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§109. Name

All contractors shall bid and perform work in the name which appears on the official records of the State Licensing Board for Contractors for the current license. If a licensed

contractor assigns a contract, or any portion of a contract, in the amount of \$50,000 or more to another contractor, the person or firm to which it is assigned, and who performs the work must possess the proper current license. No unlicensed contractor shall be permitted to assign a contract, or any portion of a contract, in the amount of \$50,000 or more to a licensed contractor in circumvention of the laws of the state of Louisiana. Any contractor relying on an exemption when bidding shall state such exemption pursuant to R.S. 37:2163(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§115. Bankruptcy

A. - B. ...

C. If any contractor is ordered by a competent court to pay a final and executory judgement awarded against him in the operation of his business, for charges for labor, material, breach of contract, etc., and fails to pay said judgement immediately upon its becoming final and executory, a hearing may be scheduled by the board for the purpose of disciplining the licensee in accordance with R.S. 37:2150, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§117. Major Classification

Any contractor possessing a major classification is permitted to bid or perform any of the specialty type work listed under their respective major classification in R. S. 37:2156.2 or any other work that might not be listed which is directly related to the major classification he may hold as long as it is not prohibited by any rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors LR 11:341 (April 1985), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§119. Notice

Proper notification under R.S. 37:2162(G), shall be five days notice. Notification shall constitute placing of said notice in the U.S. Mail certified. The five days notice shall commence to run on the date of the issuance of notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

Chapter 3. License

§305. Repealed

§311. Reciprocity

Any applicant applying for a license who desires that any portion of the law regarding time limitations be waived shall cause the State Licensing Board of his domiciliary state to

certify in writing that such board shall grant a Louisiana domiciliary that same waiver of such laws in that state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 16:602 (July 1990), amended LR 19:

§313. Financial

Repealed

§315. License Revocation and Suspension

Any person, firm or corporation duly licensed under the provision of R.S. 37:2150, et seq. who violates any provisions of the said Louisiana Contractors Licensing Law or any rule or regulation of the board may, after due and proper hearing, have its license suspended or revoked by this board. Prior to the board's action on suspension or revocation of licenses as aforesaid, the licensee shall be given a hearing in accordance with the Louisiana Code of Civil Procedure. unless there are provisions in Title 37 or the Louisiana Administrative Procedure Act to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors LR 8:138 (March 1982); amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§319. License to Demolish or Wreck

Repealed

Chapter 5. Examination

§501. Qualifying Party

A. Any licensed contractor may have more than one qualifying party. Nothing in the law is to be construed so as to prohibit a licensee from having more than one qualifying party per trade.

B. If a qualifying party for particular trade discontinues employment with a licensee, the licensee will still have a valid license and can still bid on jobs in that trade classification, but the licensee must have a qualifying party before commencing work on a new job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§503. Authorized to Take Examination

The qualifying party or parties authorized to take the examination are:

A. Any individual contractor, co-partner or any corporate officer who was an organizer in the articles of incorporation, provided no person shall be allowed to be the qualifying party for more than one company and two subsidiaries. If more than two subsidiaries are formed or acquired by a parent company, a separate qualifying party shall be registered with the board for each two additional subsidiary companies. Under no circumstances may an individual be the qualifying party for more than three entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§505. Additional Classifications

A. - 1. ...

2. A completed and notarized qualifying party application form is submitted pursuant to R.S. 37:2156.1(D)(1).

3. The required additional fees are paid and the qualifying party successfully passes the examination.

4. Additions or changes to an existing license shall become effective after completion of the above requirements and upon board approval at the next regularly scheduled board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), LR 11:341 (April 1985), LR 12:760 (February 1986), amended Department of Economic Development, State Licensing Board for Contractors, LR 16:602 (July 1990), LR 19:

§507. Applicants

A. Except as otherwise provided by law, all initial applicants shall be required to take and successfully pass the business and law portion of the board's examination and the trade portion where there exists a written or oral examination for same.

B. The qualifying party shall submit his application, with all supporting documentation, for approval at least 10 days prior to taking the examination. The qualifying party shall list all prior affiliations with a licensed contractor(s) and shall disclose whether or not any sanctions have been levied against such contractor(s). The qualifying party shall also state his and/or the contractor's involvement in such sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 16:602 (July 1990), LR 19:

§509. Exemption from Examination

A. ...

B. A licensed firm making application for a subsidiary license for the same classification(s) as those in which the licensed firm has qualified may be exempt from taking of an examination, provided that the qualifying party on record with the State Licensing Board for Contractors for the licensed firm making application for a subsidiary license is the same as that of the parent company, and further provided that no person shall be allowed to be the qualifying party for more than one company and two subsidiaries. If more than two subsidiaries are formed or acquired by a parent company, a separate qualifying party shall be registered with the board for each two additional subsidiary companies. It is further provided that any subsidiaries qualifying under the terms of this Section shall not be permitted to assume the position of a parent company or firm for the purpose of forming additional subsidiaries, if such reorganization results in there being a

single qualifying party for more than one parent company and two additional subsidiary companies.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:136 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 16:602 (July 1990), LR 19:

Chapter 7. Hearing; Meetings

§701. Hearings

A. Hearings may be conducted by the board's legal counsel at regular or special meetings whenever deemed necessary and special hearing officers may be hired at the board's discretion. Hearings shall be conducted in accordance with the Code of Civil Procedure, unless there are provisions to the contrary in Title 37 or the Administrative Procedure Act.

B. Written notice by certified mail shall be given to all parties at least five days prior to such hearings or special meetings. The board members shall be notified at least three days prior to such hearings or special meetings. The notice shall include the time, place and purpose of the hearing or special meeting and may be held at any place within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 4:69 (March 1978), LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§703. Special Meetings

Repealed

Chapter 9. Subcontractors

§903. Subcontractor License; Default

A. It shall be unlawful and illegal for any general contractor, contractor, owner, awarding authority, subcontractor, or any other person to contract or subcontract all or any portion of work involved herein, to any other contractor, or subcontractor unless said contractor or subcontractor was duly licensed by the board as of the final date fixed for the submission of bids on said work from the primary contractor to the owner or awarding authority. This rule shall be subject to the provisions and limitations established by R.S. 37:2156(B) and (D).

B. If work is subcontracted as per this rule, and the subcontractor should default for any reason, the awarding authority shall have the right to take bids from any subcontractor that is properly licensed at the time of this default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

Chapter 11. Bidding

§1101. Violations

Repealed

§1105. License Number

Repealed

§1107. Federal Projects

A.1 Repealed

A license shall not be required to bid on any projects funded in part by the federal government designated for a particular project by an agency of the federal government where a federal regulation or law prohibits such requirement, provided said agency presents specific evidence of a federal regulation or law prohibiting same in the bid documents. Should the agency fail to present such evidence, the bidder shall be required to have a license before bidding. Any successful bidder on any exempt project funded in part by the federal government shall submit an application for license completed in its entirety and pay the fee prior to commencement of work on federal jobs. After meeting said requirements, a letter shall be issued to said successful bidder authorizing the commencement of work. Thereafter, the application shall be presented to the board at its next regular meeting and following compliance with all remaining requirements including delay periods, a license shall be issued.

B. 1. - 2. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), LR 12:761 (February 1987), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

§1111. Failure to Insure or Bond

Whenever a licensed contractor bids a project within the scope of this Act, and is awarded the contract, is unable or refuses to provide bonding and insurance coverage as required by the proposal bid for the execution of the project, the awarding authority or owner may file a complaint with the board. The board shall investigate such complaint and if after due hearing, may discipline the licensee in accordance with R.S. 2150, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 8:137 (March 1982), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

Chapter 13. Fees

§1301. Fee for Licenses

The annual fee for licenses for the following year shall be set by the board at its July meeting each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors November 1974, amended LR 2:271 (September 1967), LR 8:136 (March 1982), LR 10:199 (March 1984), LR 11:341 (April 1985), LR 12:761 (February 1986), amended Department of Economic Development, State Licensing Board for Contractors, LR 19:

Comments regarding the proposed rule changes should be directed in writing to Joy Evans, State Licensing Board for Contractors, Box 14419, Baton Rouge, LA 70898. All comments may be submitted until 4:30 pm., August 10, 1993.

J. Warren Landry
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Revised Regulations (LAC 46:XXIX.Chapters 1, 3, 5, 7, 9, 11, and 13)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This will not affect revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
These rules are being amended to conform with the Contractors Licensing Law as it was changed in the 1992 Legislative Session. There has been no change in any rule which would affect contractors directly by an additional cost or manner in which they are allowed to operate under their license issued by this board.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rules are only being changed to conform with the Contractors' Licensing Law as it was amended in the 1992 Legislative Session. There would be no affect on competition in contractors bidding or being awarded work. Also, there would be no affect on their employing persons in their contracting firms.

Joy Evans
Administrator

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revised Bulletin 1191, School Transportation Handbook

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 Bulletin 1191, Revised 1993, School Transportation Handbook.

This bulletin, which is referenced in the Administrative Code, Title 28 as stated below, may be seen in its entirety in the Office of the State Register, 1051 North Third Street, Baton Rouge LA 70804, phone (504) 342-7815; the Office of the Board of Elementary and Secondary Education; and in the State Department of Education, Office of Educational Support Programs.

Title 28 EDUCATION

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

§915. Bus Transportation Standards and Regulations

A. Bulletin 1191, School Transportation Handbook, Revised 1993, is adopted as revised.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158; R.S. 17:160-161; R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:40 p.m., June 8, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: REVISED BULLETIN 1191, SCHOOL
TRANSPORTATION HANDBOOK**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated implementation cost to print 166 copies of the revised 1993 School Transportation Handbook, Bulletin 1191, is \$540.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated effect on revenue collections, after giving two copies to each school system, and selling the remaining and future copies at a rate of \$5 per copy, would be \$250 in FY 93-94.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Individual school bus operator, school personnel and parents may purchase this bulletin at a cost of \$5.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706, School for the Deaf Alternative Placement

In accordance with the R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted an amendment to Bulletin 1706, Regulations for the Implementation of the Exceptional Children's Act to add Section 716 - Louisiana School for the Deaf Alternative Placement as stated below. This amendment was also adopted as an emergency rule and printed in full in the March, 1993 issue of the *Louisiana Register*.

§716. Louisiana School for the Deaf Alternative Placement

A. In compliance with Acts 433 and 911 of the 1992 Regular Session of the Louisiana Legislature, the Louisiana School for the Deaf (LSD) shall:

1. determine, not later than the second Monday in September of each year, the number of additional children who may be admitted under this placement option;

2. base the determination on the availability of all necessary resources required to provide a free appropriate public education.

B. Upon receipt from a parent (as defined in Part 900 of this Bulletin) of an application for admission of their child, LSD shall:

1. require, at a minimum, an individual evaluation which meets the requirements in Bulletin 1508 for classification as hearing impaired (deaf/hard of hearing) as a part of the application;

2. notify the school system of parent/child domicile that application has been made, in order to fulfill the provisions established in Subsection 709 of this Bulletin.

C. Within 45 operational days, LSD shall: process the application; make a determination of eligibility for admission; and develop an Individualized Education Program (IEP). In the development of the IEP, the parent shall be informed of all placement options available to meet the child's educational needs.

D. LSD shall notify the school system of parent/child domicile that a child has been admitted or rejected under the provisions of this Subsection.

E. The applicable procedural safeguards established in Part 500 of this Bulletin shall be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 - 1958.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:

Interested persons may submit comments on the proposed rule until 4:30 p.m. June 8, 1993 to: Eileen Bickham, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: BULLETIN 1706, SCHOOL FOR THE DEAF
ALTERNATIVE PLACEMENT**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated costs for implementing this new rule are:

1) Approximately \$250 for printing and distribution/mailing of changes and notices, and

2) Approximately \$60 per month per student for two mandatory home going visits. Estimating approximately 20 students to be covered, this would equal \$1,200 per month, and annual cost of \$10,800 annually.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collection is anticipated as a result of these changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No costs/benefits are anticipated other than incidental sporadic parental contacts regarding admission of students to Louisiana School for the Deaf.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effects on competition and employment are anticipated.

Marlyn Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Loan Cancellation with Fee Outstanding

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the Loan Program Policy and Procedure Manual to provide for a standard procedure to cancel a loan or disbursement when a fee has not been paid.

Paragraphs A and B of Section 6.2.14 shall be amended as follows:

A. To cancel a loan or disbursement, when the fee is paid:

1. obtain Loan Cancellation Request form (LASFAC 6);
2. enter name and code of lender;
3. enter borrower's name and social security number in appropriate location; include loan number, if known;
4. enter:
 - a. scheduled dates of disbursement;
 - b. amount of disbursement to be canceled, and
 - c. reason for cancellation;
 - d. total amount of all disbursements being canceled.

Note: If you are only canceling one disbursement, one entry is needed. If you are canceling an entire loan, you must complete all scheduled disbursement dates. Be certain that the disbursements are equal to the guarantee amount, and all disbursements are listed.

5. Complete Signature, Title and Date, inserting legible name and title of authorizing official. Careful review is suggested before signing, to ensure that the proper cancellation is being processed. Once the cancellation form is processed by LASFAC, the loan guarantee is canceled. Once a lender has instructed that a loan or disbursement be canceled, a reinstatement request and fee will be required to restore the disbursement or loan to the system.

B. To cancel an entire loan or entire disbursement from the Lender Insurance Premium Invoice when the fee is outstanding:

1. identify name, social security number, loan and disbursement number on Lender Insurance Premium Invoice;
2. check appropriate column to indicate whether the entire disbursement or entire loan is to be canceled;
3. place amount of disbursement/s or loan/s to be

canceled in "Comment" column;

4. total all amounts canceled and indicate total at bottom of "Comments" column on each page;

5. initial the column on each page where totals of cancellations are indicated.

C....

Interested persons may submit written comments on the regulations until 4:30 p.m., June 20, 1993, addressed to:

Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: LOAN CANCELLATION WITH FEE OUTSTANDING

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs will be incurred by the agency as a result of this change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No revenue changes will be incurred as a result of this change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Participating lenders or their servicers may experience a small reduction in administrative costs as a result of the proposal's implementation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition or employment will result from this change.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Assistance Plan (TAP)

VI. LOUISIANA TUITION ASSISTANCE PLAN (TAP)

A. Program Description, History and Purpose

The Louisiana Tuition Assistance Plan (TAP) Program, formerly referred to as the Louisiana College Tuition Plan and the "Taylor" Plan, which was first awarded in the fall of 1989, provides tuition exemption to Louisiana residents who enroll in public colleges and universities to pursue an

academic undergraduate degree and who meet specific academic standards and financial need criteria. The annual award amount for TAP varies, since it is based on the actual tuition charges of individual state institutions.

A cumulative maximum award amount is not established; however, there is a five-year limitation on the number of academic years (10 semesters or 15 quarters) a recipient may receive this entitlement. Institutions, after submitting vouchers to OSFA, are reimbursed each term for the tuition and fees waived for TAP recipients.

B. Legislative Authority

- R.S. 17:3026
- Act 789 of 1989 Regular Session
- Act 1055 of 1990 Regular Session
- Act 718 of 1992 Regular Session

C. Student Participation/Responsibilities

1. Initial Eligibility. To establish initial eligibility, the student must meet all of the following criteria:

- a. complete and submit the Free Application for Federal Student Aid (or FAFSA) by April 1 (or the next business day if the first falls on a weekend);
- b. have actually resided in Louisiana during the 24 months preceding college or university enrollment;
- c. have parent(s) or guardian who is a domiciliary of Louisiana;
- d. have graduated from high school within the two years preceding the application;
- e. have no criminal record other than misdemeanor traffic violations;
- f. enroll full time at a Louisiana two-year or four-year public institution of higher education as a first-time, full-time undergraduate student;
- g. be a U.S. Citizen or National and registered with Selective Service, if required;
- h. demonstrate financial need as defined herein:

The family must have an annual adjusted gross income of less than \$25,000, plus \$5,000 for each dependent child other than the applicant. Effective January 1, 1993, the adjusted gross income eligibility limitation shall be annually adjusted for inflation in accordance with the Implicit Deflator for Personal Consumption Expenditure Index, annualized, reported by the United States Department of Commerce, Economic Statistics Administration, Bureau of Economic Analysis. For a dependent applicant, the adjusted gross income of the family shall include the reported income of the parent or parents and any income of the applicant in excess of \$3,999.99. For an independent applicant, the family income shall include all reported income of the applicant and, if married, the spouse's reported income. The term "family" for a dependent applicant means the applicant and the applicant's parent or parents and their other dependent children. The term "family" for an independent applicant means the applicant, and if married, the applicant's spouse and any dependent children. To be classified as independent, a person must be 24 years of age or older by December 31 of the award year, an orphan or ward of the court, a veteran, a married student, a student with dependents other than a spouse, or a student determined independent by a financial aid

officer exercising professional judgment as authorized by federal regulations for this purpose;

- i. have earned a minimum high school cumulative grade point average of 2.50 calculated on a 4.00 scale;
- j. have attained a composite score of at least 20 on the enhanced ACT test;
- k. have successfully completed 17½ units of high school coursework constituting a core curriculum as follows:

<u>Units</u>	<u>Course</u>	<u>Units</u>	<u>Course</u>
1	English I	1	Earth Science,
1	English II		Environmental Science
1	English III		Physical Science,
1	English IV		Biology II, Chemistry
1	Algebra I		II or Physics
1	Algebra II		
1	Geometry, Trigonometry	1	American History
	Calculus or Comparable	1	World History, World
	Advanced Math		Culture, Western
1	Biology I		Civilization or World
1	Chemistry I		Geography
1	Elective from the	1	Civics and/or
	courses listed		Economics/Free
			Enterprise
		1	Fine Arts Survey; or
			2 units Performance
			Arts of Music and/or
			Dance and/or Theater
			or 2 units of Studio
			Art
		2	In the same Foreign
			Language
		½	Computer Science,
			Computer Literacy, or
			Data Processing

1. the Louisiana Tuition Assistance Plan authorizes the payment of required fees for students who meet all the nonacademic requirements and:

- i. meet two of these three academic requirements:
 - 2.50 high school grade point average;
 - 17.5 units of high school core courses;
 - 20 enhanced ACT composite score;
- ii. and, meet the third and remaining requirement by not less than:
 - 2.25 high school grade point average; or,
 - 16 units of high school core courses; or,
 - 18 enhanced ACT composite score.

The requirement for successful completion of core curriculum courses which were not available to the applicant at the school attended, may be waived through the 1995-96 high school academic year;

m. be in compliance with the terms of other federal and state aid programs administered by the commission;

n. if the student is receiving other financial assistance awards which, together with the award of TAP, would exceed the institution's cost of attendance or some other limitation established by the institution which may be less than the cost of attendance, the amount of tuition to be paid by the TAP award shall be reduced;

o. not be receiving a tuition waiver or award from another source including, but not limited to, the Louisiana National Guard tuition waiver, the Vocational Rehabilitation tuition waiver, the LSU Board of Supervisors Scholarship and the Louisiana Honors Scholarship.

2. Award Notification/Acceptance:

a. receive notification from OSFA of eligibility determination;

b. respond in writing, if requested, to above correspondence by specified deadline;

c. receive award notification and return award acceptance to OSFA;

d. register for classes with tuition exemption notification form.

3. Renewal Eligibility. Continuing eligibility is contingent upon the recipient meeting the following requirements:

a. make steady academic progress toward an undergraduate degree, earning not less than 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or 8 quarter hours as the minimum for full-time undergraduate status;

b. maintain continuous enrollment for not less than two semesters or three quarters in each successive academic year, unless granted an exception for cause by OSFA;

c. maintain a cumulative grade point average of at least 2.50 calculated on a 4.00 scale at the end of the first academic year and each year thereafter;

d. have no criminal record except for misdemeanor traffic violations;

e. annually apply for federal student aid;

f. be found to be in financial need. A "financial need" base year maximum, which is the maximum allowable income for the student to qualify at the time of initial application, is set for each new applicant. Effective January 1, 1993, the base year maximum shall be annually adjusted for inflation in accordance with the procedure detailed in Paragraph C. 1.

h. The student will continue to be found in financial need as long as the family's most recent adjusted gross income, as defined in Paragraph C. 1. h. does not exceed the base year maximum after the adjustment for inflation. In the event that the family size were to increase due to an additional birth in the family or if the applicant's family status changes from dependent to independent, the base year maximum shall be recomputed based on the criteria of an initial applicant;

g. have previously received less than five years of tuition payment (10 semesters or 15 quarters), unless an extension is granted by OSFA.

h. failure to maintain academic eligibility will result in permanent cancellation of the recipient's entitlement. A recipient denied continuation because of failure to show financial need may be reinstated, upon written request, if the individual has maintained the academic requirements for continuation and has re-established financial need.

D. High School Participation/Responsibilities:

1. complete High School Certification Listing of Applicants and return to OSFA;

2. receive OSFA notification of students' eligibility determination and award selection determination.

Louisiana public and private high schools must certify to OSFA the credentials of graduates applying for the program. Residents of Louisiana graduating from out of state high schools are responsible for ensuring these schools provide certified credentials to OSFA. OSFA shall notify high schools of the eligibility of applicants certified by the high schools.

E. College/University Participation/Responsibilities. The only colleges/universities authorized to participate in the TAP program are Louisiana public colleges and universities.

1. Receive OSFA notification of students' eligibility determination.

2. Respond to OSFA communications as requested including, but not limited to, the following:

a. confirmation of full-time enrollment status each fall semester or quarter;

b. submit voucher to OSFA to be reimbursed for each term's tuition and fees waived for TAP recipients;

c. supply confirmation of continuing eligibility, including the following, to be supplied at the completion of each academic year (ending after each spring semester/quarter):

i. total number of hours earned during the specific academic year (excluding summer sessions);

ii. cumulative hours earned (including prior academic years and summer sessions);

iii. cumulative GPA, including all grade credits earned to date;

iv. actual date of graduation;

v. major;

d. notify OSFA immediately if applicant fails to enroll or withdraws from school;

e. notify OSFA of any irregularities discovered by the institution which may affect student eligibility status;

f. maintain adequate records to verify compliance with LASFAC policies.

3. Follow LASFAC billing procedures, as follows:

a. Institutions may bill LASFAC only for students certified eligible by OSFA.

b. Institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill LASFAC for students who are enrolled less than full time on the fourteenth class day. In such cases, the students are responsible for reimbursing the institutions for any monies owed. After the fourteenth class day, refunds for less than full-time enrollment fourteenth class day are to be retained by the institution.

c. To prevent the student's total financial assistance awards from exceeding the institution's cost of attendance or some other limitation established by the institution which may be less than the cost of attendance, the institution may reduce the amount of tuition to be paid by the TAP award and subsequently billed to LASFAC.

d. Institutions may not bill LASFAC for a TAP award if the recipient has elected to accept a tuition waiver or award from another source including, but not limited to, the Louisiana National Guard tuition waiver, the Vocational Rehabilitation tuition waiver, the LSU Board of Supervisors Scholarship and the Louisiana Honors Scholarship.

e. Annually, institutions are required to provide OSFA a current fee schedule. Fee schedule is defined as a listing of the actual tuition and mandatory fees for attendance at that school as defined by the institution. An itemized description of the composition of the mandatory fees listed on the fee schedule must also be supplied.

f. Upon the school's certification of the TAP recipient's full-time enrollment, OSFA will reimburse the institution up to the maximum amount listed on the approved fee schedule.

Interested persons may submit written comments on the regulations until 4:30 p.m., June 20, 1993, addressed to: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: TUITION ASSISTANCE PLAN (TAP)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rules implement the provisions of Act 718 of the 1992 Regular Session which amends the Tuition Assistance Plan (TAP). No additional costs are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated from the proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
No costs are anticipated to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition or employment is anticipated from the proposed action.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Systemic Initiatives Program Council**

Inservice Proposals (LAC 28:VII.Chapter 1)

The Department of Education, Systemic Initiatives Program Council, proposes to adopt the following rules in the Systemic Initiatives Program.

Under the requirements of the legislation creating the Louisiana Systemic Initiatives Program Council, procedures that are to be followed in selecting publicly solicited proposals

for funding must be established. Proposals describe teacher training programs to be conducted by Louisiana institutions of higher education and local school boards in cooperation with an institution of higher education, to help implement systemic change in the methods of teaching mathematics and science in Louisiana.

**Title 28
EDUCATION**

Part VII. Systemic Initiatives Program

**Chapter 1. Inservice Proposals For The Louisiana
Systemic Initiatives Program**

§101. Definitions

(Reserved)

§103. Distribution of Proposals

A. Direct Solicitation

1. Requests for proposals will be distributed to each Louisiana institution of higher education, parish school system, and selected city school systems.

B. Published Announcement

1. A request for proposals will be published in the Baton Rouge *Advocate* newspaper and one or more newspapers in the state. Requests for proposals will be sent to all parties requesting a proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2751-2754 and R.S.17:2757-2759.

HISTORICAL NOTE: Promulgated by the Department of Education, Systemic Initiatives Program Council, LR 19:

§105. Submission of Proposals

A. Notice of Intent

1. Before a proposal for a new inservice project or a proposal for renewal of a current inservice project will be accepted by LaSIP, applicants must submit an original and four copies of the completed "notice of intent" form for each proposal to be submitted. The "notice of intent" form is included in each "request for proposals."

2. Copies of the project abstract must be stapled to the original, as well as to all four copies of the notice of intent.

3. Notices of intent must be forwarded to LaSIP offices at the address set out in the requests for proposals.

4. Notices of intent must be in the LaSIP office (not simply postmarked) by the date indicated in the requests for proposals.

B. Limitation On Inquiries

1. In accordance with LSA-R.S. 39:1503, written and oral inquiries about the announcement and guidelines for the requests for proposals will be accepted until the date as indicated in the requests for proposals. No inquiries, written or oral, will be accepted after the designated date.

2. Following the date of limitation on inquiries, all inquiries regarding the announcement and guidelines and all responses to those inquiries, will be transcribed and forwarded to all colleges and school systems that submitted notices of intent.

C. Submission of Proposal

1. One original proposal, with signatures, and 14 copies, must be submitted to the LaSIP office at the address indicated in the requests for proposals. Proposals must be in the LaSIP office, not simply postmarked, by the date indicated in the requests for proposals.

2. All proposals must conform to the format as set out in the requests for proposals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2751-2754 and R.S. 17:2757-2759

HISTORICAL NOTE: Promulgated by the Department of Education, Systemic Initiatives Program Council, LR 19:

§107. Proposal Review Process

A. Review For Renewal of Currently Funded Inservice Projects

1. During the summer of the project's activity period, selected observers will visit and assess all inservice projects, and submit a written report based on observations.

2. Near the end of the summer of a project's activity period, out-of-state consultants will visit each project and prepare a comparative evaluation report for each project.

3. During the fall of a project's activity period, LaSIP will form a panel of out-of-state consultants to assess proposals which are renewals of currently funded projects. The panel will consider: the renewal proposal, data collected by LaSIP's staff, assessment of the project's activities by in-state observers, evaluation of the project by out-of-state evaluators, and responses of the project director to summer assessment and evaluation.

4. The panel will interview key personnel for proposals under review and write a report which:

a. separately assesses each renewal proposal according to the criteria listed in the *General Guidelines and Criteria for Evaluation of Proposals* as set out in the latest requests for proposals;

b. recommends improvements in proposals when appropriate; and

c. recommends proposals to be considered for review by the statewide review team.

5. The panel report will be disseminated to the project directors from each submitting institution.

6. The panel report indicating funding recommendations will be forwarded to the statewide review team.

7. Project directors for those proposals recommended for consideration by the statewide review team will prepare formal responses to LaSIP which address suggestions of the review panel.

8. The statewide review team will interview the project directors of the projects recommended for consideration, and will make recommendations to the LaSIP Council and LaSIP staff. The LaSIP Council will make funding decisions according to current budget considerations.

B. Review of New Inservice Proposals

1. LaSIP will form two out-of-state review panels for new proposals, one in mathematics and one in science.

2. Proposals will be sent to the appropriate review panel members.

3. Each panel member will assess the proposals according to the *General Guidelines and Criteria for Evaluation of Proposed Inservice Projects* as set out in the latest requests for proposals.

4. Each panel will write a report which:

a. separately assesses each proposal;

b. recommends improvements in proposals when appropriate; and

c. recommends proposals to be considered by the statewide review team.

5. The panel reports will be disseminated to the project directors from each submitting institution.

6. Project directors for those proposals recommended by each panel for consideration by the statewide review team will prepare formal responses to LaSIP which address suggestions of the appropriate review panel. Responses should be received at the LaSIP office by the date as indicated in the current requests for proposals.

7. The panel reports will be forwarded to the statewide review team.

C. Statewide Review Team

1. The statewide review team will be comprised largely of individuals previously involved in LaSIP reviews. The statewide review team will review proposals identified as meritorious by the Review Panel for Currently Funded Projects and the Review Panel for New Science and Mathematics Projects.

2. The statewide review team will base its assessment of each proposal on the following:

a. examination of proposal;

b. examination of the report of the appropriate review panel;

c. examination of the project director's response to the panel report.

3. The statewide review team will place inservice proposals into two categories:

a. recommended for funding according to current budget guidelines;

b. not recommended for funding.

4. Those proposals the statewide review team recommends for funding will be ranked according to priority for funding.

5. The statewide review team will forward its recommendations for funding to the LaSIP Council and the LaSIP staff.

D. The LaSIP Council will make funding decisions based upon recommendations of the statewide review team and the LaSIP staff.

E. The LaSIP Council will rank all projects it recommends for funding from highest priority to lowest priority.

F. The LaSIP Council will fund projects, beginning with the highest priority and continuing downward toward the lowest priority, until the total amount approved for project funding approaches, but does not exceed, LaSIP's budget for inservice projects.

G. Institution's Refusal of An Inservice Award

1. If one or more institutions refuses to accept a funding award, the available money shall be offered first to the next ranked proposals in science in the order of their ranking, and in accordance with LaSIP budget guidelines. If funds are still available, this money will be offered to the single proposal in mathematics which consultants indicated had a potential for funding for which funds are not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2751-2754 and R.S. 17:2757-2759

HISTORICAL NOTE: Promulgated by the Department of Education, Systemic Initiatives Program Council, LR 19:

§109. Protest Procedure

A. An institution whose proposal was not selected for funding may request, in writing, a special review of its proposal. The request must be received by LaSIP at its office in Baton Rouge, Louisiana within five days of receipt of the report indicating the institution's proposal will not be funded.

B. A special review panel will evaluate the decision affecting the institution's proposal. The special review panel will be comprised of the:

1. president of the Board of Elementary and Secondary Education;
2. chairman of the Louisiana State Board of Regents;
3. LaSIP project director;
4. LaSIP project co-director;
5. LaSIP associate director for the academic area addressed by the proposal;
6. LaSIP coordinator for the academic area addressed by the proposal.

C. The special review panel will evaluate the decision by taking into consideration the reports submitted by the out-of-state panel, the statewide review team, and the LaSIP Council.

D. The special review panel will forward to the protesting institution a written report of its evaluation. The special review panel's report is a final decision if it affirms the decision.

E. If the special review panel reverses the decision, the following procedures will be followed:

1. if the decision protested is that of the LaSIP Council, the subject proposal will be submitted again to the LaSIP Council, and the council will re-evaluate the proposal with consideration given to the special review panel's report. The council will then make a final decision concerning the proposal's funding.
2. if the decision protested is that of the out-of-state review panel, the proposal will be reinserted into the review process by sending it to the statewide review team.
3. if the decision protested is that of the statewide review team, the proposal will be reinserted into the review process by sending it to the LaSIP Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2751-2754 and R.S. 17:2757-2759

HISTORICAL NOTE: Promulgated by the Department of Education, Systemic Initiatives Program Council, LR 19:

§111. Termination of Funding

A. The Louisiana Systemic Initiatives Program Council will notify an institution, in writing, of the intent to terminate funding for a project. The written notice will include the reasons for termination.

B. The institution may request a hearing within five days of receipt of the notice of termination. The request must be in writing.

C. Upon receiving a request for a hearing, the Louisiana Systemic Initiatives Program Council shall schedule a hearing at the earliest possible date.

D. Written notification will be given to the institution and will include:

1. date and time of the hearing;
2. place of the hearing;
3. explicit reasons for the termination.

E. A hearing officer shall conduct the hearing and shall render a decision within 10 days after the hearing is completed. Written notification of the decision shall be mailed to the interested parties. The hearing officer's decision will become final within 15 days unless an appeal is filed.

F. An appeal of the hearing officer's decision may be made to the Louisiana State Department of Education's superintendent by submitting, in writing, a request for the superintendent to review the hearing officer's decision. The appeal to review the decision must be received in the superintendent's office no later than 15 days after the hearing officer's decision is received. If no appeal is filed, or not filed timely, the hearing officer's decision is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2751-2754 and R.S. 17:2757-2759

HISTORICAL NOTE: Promulgated by the Department of Education, Systemic Initiatives Program Council, LR 19:

Inquiries and comments regarding these proposed rules will be accepted through the close of business at 4:30 p.m. on June 1, 1993, and should be addressed to Van Anderson, Fiscal/Contracts Coordinator, at the Louisiana Systemic Initiatives Program Council, 1885 Wooddale Boulevard, 11th Floor, Baton Rouge, LA 70806.

Kerry Davidson
Project Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: INSERVICE PROPOSALS

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs associated with these proposed rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

These proposed rules will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits associated with these proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition and employment.

Van T. Anderson
Fiscal/Contracts Coordinator

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality
Office of Air Quality and Radiation Protection
Radiation Protection Division

Comprehensive Toxic Air Pollutant Emission Control
Program (LAC 33:III.Chapter 51) (AQ71)

Under the authority of the Environmental Quality Act, particularly R.S. 30:2060 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 Division Regulations, LAC 33:III.Chapter 51, (Log AQ71).

The proposed rule amendment to LAC 33:III.Chapter 51.Subchapter A establishes new criteria for determining when public notice will be required prior to issuance of an air quality permit or approval of an air toxics compliance plan. The proposed rule amendment also clarifies that no source will be granted more time to comply with air toxics standards than is allowed under federal law or regulation, and that emissions of toxic air pollutants must be specifically listed in the permit. The amendment also corrects Chemical Abstracts Service (CAS) numbers and other errors in the Tables of toxic air pollutants.

These proposed regulations are to become effective on July 20, 1993, or upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant
Emission Control Program

Subchapter A. Applicability, Definitions, and General
Provisions

§5107. Reporting Requirements, Availability of
Information, and Public Notice Provisions

D. Public Notice Provisions

1. Public notice will be published by the administrative authority to allow adequate time for public comment before granting approval for construction or issuing any permit which would:

- a. allow an increase in any Louisiana toxic air pollutant by an amount greater than the minimum emission rate; or
- b. allow the addition of any new point source or emission unit which would emit a Louisiana toxic air pollutant by an amount greater than the minimum emission rate.

2. Public notice will be published by the administrative authority to allow adequate time for public comment before granting approval of any compliance plan or certification of compliance submitted pursuant to LAC 33:III.5109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:

§5109. Emission Control and Reduction Requirements
and Standards

D. The following schedules for compliance will apply:

4. Under no circumstance will the owner or operator of any major source under this Chapter be granted more time to comply with Maximum Achievable Control Technology requirements than is allowed under an applicable federal MACT standard established pursuant to Section 112 of the Federal Clean Air Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:

§5111. Permit Requirements, Application, and Review

B. Contents of Application for a Louisiana Air Permit

2. Each application for a permit to construct a new major source shall include the following:

c. technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of intended controls and monitoring procedures. Such technical information shall include estimation of emissions prior to and after installation of emission control equipment or adoption of control measures, calculations of emission estimates in sufficient detail to allow assessment of the validity of the calculations, and documentation of methods or sources of information used in these determinations. Emissions of toxic air pollutants shall be specified to identify each toxic air pollutant emitted from each emission point at the source and to identify fugitive emissions of toxic air pollutants;

C. Permit Review Process

3. If the administrative authority determines that operation of a stationary source for which an application was submitted will not result in violation of a standard as set forth in this Chapter, the administrative authority may issue a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:

Table 51.1 Minimum Emission Rates Toxic Air Pollutants			
* * *			
CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
* * *			
CHLORINATED DIBENZO-P-DIOXINS [2]	3268-87-9		0.0001
* * *			

Table 51.3 LOUISIANA TOXIC AIR POLLUTANTS SUPPLEMENTAL LIST*			
COMPOUNDS	CAS NO.	CLASS	SYNONYMS
* * *			
COBALT COMPOUNDS	7440-48-4	II	
* * *			
CYANIDE COMPOUNDS [4]	57-12-5	III	
* * *			
ETHYL CARBAMATE	51-79-6	II	Urethane
(Delete the compound ETHYLENE DIBROMIDE)			
* * *			
GLYCOL ETHERS [3]	111-46-6	II	
* * *			
LEAD COMPOUNDS	7439-92-1	II	
* * *			

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), repromulgated LR 19:45 (January 1993), amended LR 19:

A public hearing will be held on May 28, 1993, at 1:30 p.m. in the DEQ Headquarters Building, 4th Floor Hearing Room (Room 4105), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 1, 1993, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA,

70810. Commentors should reference this proposed regulation by the Log AQ71.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: COMPREHENSIVE TOXIC AIR
POLLUTANT PROGRAM**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule changes the criteria determining when public notice will be provided prior to issuance of air quality permits or approval of air toxics compliance plans. The proposed rule will result in a savings to state government of approximately \$6,000 per year.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will not affect revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule changes the criteria determining when public notice will be provided prior to issuance of air quality permits or approval of air toxics compliance plans. There is no cost or economic benefit to the affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule does not affect competition and employment.

Gus Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Felony Sentencing Guidelines
(LAC 22:IX.Chapters 2, 4)**

The Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission gives notice that rulemaking procedures have been initiated to amend the Felony Sentencing Guidelines, LAC 22:IX.Subpart 1, under the provisions of the Administrative Procedure Act, R.S.49:950, et seq. The text of this rule is identical to the rule changes published as an emergency rule in the *Louisiana Register* on March 20, 1993 with an effective date of April 1, 1993.

Adoption of the amendments described here is necessary to eliminate technical problems experienced by the courts and the Office of Probation and Parole in implementing the Felony Sentencing Guidelines as of January 1, 1992 and to make such other adjustments as are necessary to ensure the timely and

expeditious sentencing of offenders in a fair and equitable manner under the sentencing guidelines without delay.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part IX. Sentencing Commission

Subpart 1. Felony Sentencing Guidelines

Chapter 2. Determining Sentences Under the Sentencing Guidelines

§205. Criminal History Index Classification System

* * *

B. Definitions

* * *

8. *Prior conviction or prior adjudication*—for purposes of the guidelines, means a plea of guilty or nolo contendere, a verdict of guilty, a judgment of guilt, or an adjudication occurring before the conviction for the offense which serves as the basis for the current sentencing. A conviction which was set aside under the provision of C.Cr.P. 893 shall be included as a prior conviction. A plea of guilty under R.S. 40:983 shall be included as a prior conviction unless the defendant was subsequently discharged and the case dismissed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19:

§209. Departures From the Designated Sentence Range

* * *

B. *Aggravating circumstance*—means a factor which is present to a significant degree which makes the present case more serious than the typical case arising under the offense of conviction. Factors which constitute essential elements of the offense of conviction or separate offense(s) for which defendant was convicted and sentenced shall not be considered aggravating circumstances. The following factors constitute aggravating circumstances:

* * *

19. The offender foreseeably endangered human life by discharging a firearm during the commission of an offense which has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and which, by its very nature, involves a substantial risk that physical force may be used in the course of committing the offense.

20. The offender used a firearm or other dangerous weapon while committing or attempting to commit an offense which has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and which by its very nature, involves a substantial risk that physical force may be used in the course of committing the offense.

21. The offender used a firearm or other dangerous weapon while committing or attempting to commit a controlled dangerous substance offense.

22. Any other relevant aggravating circumstances which distinguish the case from the typical case of the offense of conviction.

* * *

D. Special Provisions for the Use of Sanction Units in an Approved Treatment Plan

When the sentencing court finds it appropriate to impose a sentence composed in whole or in part of sanction units requiring the defendant's participation in a program of treatment, the court may exceed the maximum number of sanction units provided in the appropriate grid cell if the court finds that additional sanction units are necessary for the satisfactory completion of the treatment program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19:

Chapter 4. Louisiana Sentencing Guidelines Tables

§401. Criminal Seriousness Tables

A. Crime Seriousness Master Ranking List

* * *

Carrying a firearm by a student or non-student on school property or firearm-free zone (LRS 14:95.2): Level 4.

* * *

B. Felonies Ranked Numerically by Statute Number

* * *

Carrying a firearm by a student or non-student on school property or firearm-free zone (LRS 14:95.2): Level 4.

* * *

C. Ranked Felonies in Alphabetical Order

* * *

Carrying a firearm by a student or non-student on school property or firearm-free zone (LRS 14:95.2): Level 4.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19:

§402. Criminal History Tables

* * *

D. Crime Family Table

* * *

Carrying a firearm by a student or non-student on school property or firearm-free zone (LRS 14:95.2): Level 4.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19:

§403. Tables for Determining Designated Sentence

* * *

C. Intermediate Sanction Exchange Rate Table

Sanction	Duration	Sanction Unit Value
* * *		
Treatment-- Residential***	1 Month	3
Treatment-- Nonresidential***	15 Hours	3
* * *		

***May exceed the maximum number of sanction units in accordance with LAC 22:IX.209.D.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19:

Complete tables 401.A, B, C, and 402.D, including amendments, can be obtained from the Office of State Register, 1051 North Third Street, Baton Rouge, LA 70802 or from the Sentencing Commission, 1885 Wooddale Blvd., Room 708, Baton Rouge, LA 70806.

Interested persons may submit written comments on the proposed amendments to the Felony Sentencing Guidelines until 5 p.m., May 5, 1993, to Carle L. Jackson, Director, Sentencing Commission, 1885 Wooddale Blvd., Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: FELONY SENTENCING GUIDELINES**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments to the Felony Sentencing Guidelines will have no implementation costs(savings) to state or local governmental units, other than the cost of \$2,420 to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice for printing and mailing the amendments as updates to the current text of the Felony Sentencing Guidelines.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments to the Felony Sentencing Guidelines will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed amendments to the Felony Sentencing Guidelines will have no effect on cost and/or economic benefits to directly affected persons beyond the penalties imposed by the court in accordance with the Sentencing Guidelines, or to non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments to the Felony Sentencing Guidelines will have no effect on competition and employment.

Michael A. Ranatza
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Office of the Governor
Patient's Compensation Fund Oversight Board**

Enrollment Date (LAC 37:III.Chapter 9)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., advertises its intent to amend LAC 37:III.Chapter 9, as follows, pertaining to the effective date of enrollment with the fund by a health care provider who qualifies for enrollment or who applies for a renewal of enrollment with the fund.

**Title 37
INSURANCE**

**Part III. Patient's Compensation Oversight Board
Chapter 9. Scope of Coverage
§901. Effective Date**

A. Initial Enrollment—Insured Health Care Providers: A health care provider who qualifies for an initial period of enrollment with the fund, by demonstrating financial responsibility through professional liability insurance pursuant to §505 of these rules, shall be deemed to become and be enrolled with the fund effective as of the date on which the surcharge payable by or on behalf of such health care provider is received by the insurance company or its agent in accordance with §711 of these rules.

B. Renewal of Enrollment—Insured Health Care Providers: A health care provider who qualifies for renewal of enrollment with the fund, by demonstrating continued financial responsibility through professional liability insurance pursuant to §505 of these rules, shall continue to be enrolled with the fund, effective as of the date on which the surcharge payable by or on behalf of such health care provider is paid in accordance with §711 of these rules, retroactive to the effective date of the policy period of the underlying professional liability insurance policy evidencing such financial responsibility. If such surcharge is not paid by the health care provider in accordance with §711 of these rules or if the insurance premiums are not paid in accordance with the underlying professional liability policy, then the effective date of the renewal of enrollment with the fund shall be the date on which the surcharge, together with any applicable interest, penalties and attorney's fees, is paid to the fund.

C. Initial Enrollment—Self Insureds: A health care provider who qualifies for an initial period of enrollment with the fund, by demonstrating financial responsibility through self-insurance pursuant to §507 or by participation in an

approved self-insurance trust pursuant to §509 of these rules, and by payment in full of the surcharge due the fund, shall be deemed to become and be enrolled with the fund effective as of the date following the date on which a then-enrolled provider's prior term of enrollment terminates, or the date on which the provider pays the surcharges due the fund, whichever is later.

D. Renewal of Enrollment—Self Insureds: A health care provider who qualifies for a renewal of enrollment with the fund, by demonstrating financial responsibility through self-insurance pursuant to §507 or by participation in an approved self-insurance trust pursuant to §509 of these rules, and by payment in full of the surcharge due the fund, shall continue to be enrolled with the fund effective on the date the health care provider pays the surcharge due the fund. If the surcharge is not timely paid, then the effective date of the renewal of enrollment with the fund, shall be the date on which such surcharge, together with any applicable interest, penalties and attorney's fees, is paid to the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February, 1992), amended LR 19:

Interested persons may submit inquiries and written comments on the proposed amendment until 4:30 p.m., May 20, 1993, to Suanne Grosskopf, Executive Director, Patient's Compensation Fund Oversight Board, 200 Lafayette Street, #600, Baton Rouge, LA 70801 and/or to Larry M. Roedel, General Counsel, Patient's Compensation Fund Oversight Board, 2237 S. Acadian Thruway, Suite 504, Baton Rouge, LA 70808.

Suanne Grosskopf
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: ENROLLMENT DATE**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs (savings) to other state or local governmental units as a result of this proposed rule amendment. The costs to implement the amendment will include printing, copy charges, and associated costs of publication, administrative overhead expenses and legal fees, all of which should not exceed \$2,500. This amount will be paid by the Patient's Compensation Fund, R.S. 40:1299.44 et seq. from statutory dedications, i.e. absorbed/paid from available monies in the budget FY 92-93. There is no need at this time for increased staff to handle the implementation of this amended rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no material effect on the revenue collections of state or local governmental units from implementation of this amended rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed amendment will have no costs or economic

benefits to directly affected persons or non-governmental groups. The proposed amendment provides for the effective date of enrollment and renewal of enrollment with the fund by a qualified health care provider.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition and employment from implementation of this amendment.

Suanne Grosskopf
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Informal Disposition of Complaints
(LAC 46:XXXIII.Chapter 11)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.Chapter 11, regarding informal disposition of complaints. This notice of intent replaces, in its entirety, a previous notice published in the November 20, 1992 *Louisiana Register*, page 1300.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

**Chapter 11. Provisions for Informal Disposition of
Complaints**

**§1101. Implementation of the Dental Practice Act to the
Extent That It Affects Administrative Procedures of the
State Board of Dentistry Pertaining to Informal
Disposition of Complaints**

The Dental Practice Act (R.S. 37:751 et seq.) mandates the Louisiana State Board of Dentistry to regulate the practice of dentistry in the state of Louisiana. Included within the powers and duties of the board is the provision that it shall investigate complaints of illegal practice when evidence is presented to the board [R.S. 37:760(7)]. The board has utilized the Administrative Procedure Act (R.S.49:950 et seq.) and sections of the Dental Practice Act (R.S. 37:778) in conducting formal disciplinary hearings. The board adopts certain rules pertaining to informal resolution of complaints (as provided in R.S. 49:953 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 19:

§1102. Initial Review of Complaints

After receiving and reviewing the initial complaint against the dentist or dental hygienist, the board president may select informal resolution as opposed to formal adjudication of the

complaint, which may include any grounds recited in R.S. 37:776 and 37:777 or any other Section of the Dental Practice Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

§1103. Procedures

A. The president may elect among the following informal resolution procedures:

1. Informal Disposition Number One (Correspondence Between Board and Licensee):

a. A letter is mailed to the licensee from the board, outlining the nature of the complaint and inviting the licensee's response. Upon evaluation of that response, the board, through its president and one other board member, may thereafter investigate the matter further or consider the matter unworthy of further investigation; however, the board is at no time prohibited by these rules from taking, at any time, whatever additional actions it deems appropriate.

b. If the matter is resolved then the disposition thereof shall be kept in the board's office for future reference purposes and the disposition may be treated as a final action by the board, as set forth in R.S. 37:780(B).

2. Informal Disposition Number Two (Conference Between Board Members and Licensee on a "Dentist-To-Dentist" Basis):

a. The board shall send correspondence to the licensee outlining the nature of the complaint. The letter will inform the licensee that there is to be a conference, conducted informally, on a personal "dentist-to-dentist(s)" basis. The correspondence will also inform the licensee that his appearance is voluntary, that no record will be made of the conference, which records, if any, he is to produce at the conference and the date, time and location of the conference.

b. If the matter is not resolved to the satisfaction of all parties, then, after the board member(s) assigned to conduct the conference have reported to the president of the board, the latter may then recommend whatever further action, if any he deems necessary.

c. If the matter is resolved, then the disposition thereof shall be kept in the board's office for future reference purposes and the disposition may be treated as a final action by the board, as set forth in R.S. 37:780(B).

3. Informal Disposition Number Three (When Required By Statute, Rule or Court Order to Allow Opportunity to Demonstrate Compliance with the Dental Practice Act):

a. When required by statute, rule or order of a court of competent jurisdiction to allow a licensee an opportunity to demonstrate compliance with the Dental Practice Act before formal charges are brought against the licensee, a meeting shall be offered to the licensee and shall be conducted in a manner consistent with informal disposition number two of this rule. Notice of this offer shall also inform the licensee that he may request a record be made, at his expense, of the meeting to show his compliance with the act, and that he has a right to counsel. The licensee shall have 15 calendar days from receipt of notice to advise the board whether he wishes to participate in such a meeting, and whether he wishes a

record be made of such meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

§1104. Consent Decree

After the commencement of informal resolution proceedings or formal adjudication proceedings, at any time, the board and the licensee may agree to settle or dispose of the matter by way of consent decree, evidenced by a document which shall be reduced to writing, signed by the licensee, before two witnesses, and thereafter submitted to the board president for his signature. The approval of the agreement shall thereafter be placed on the agenda of the next board meeting, considered for ratification, and, if so ratified, be given full force and effect and become a final action by the board, as set forth in R.S. 37:780(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: INFORMAL DISPOSITION OF COMPLAINTS

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated implementation of costs or savings to the Board of Dentistry or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by the Board of Dentistry or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

C. Barry Ogden
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Disciplinary Proceedings (LAC 46:XLVII.3331)

Notice is hereby given that the Board of Nursing, under the authority of R.S. 37:918(K) and in accordance with R.S. 37:1746-1747 and R.S. 49:950 et seq., intends to adopt rules providing for disciplinary proceedings for registered nurses who fail to practice in accordance with LAC 46:XLVII.Chapter 40.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses
Subpart 2. Registered Nurses
Chapter 33. General Rules
Subchapter C. Disciplinary Proceedings
§3331. Definition of Terms

* * *

H.11. Failure to act or intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient, including but not limited to failing to practice in accordance with the Federal Centers for Disease Control recommendations for preventing transmission of human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

* * *

H.15. Failing to report to the board one's status when one performs or participates in exposure-prone procedures and is known to be a carrier of the hepatitis B virus or human immunodeficiency virus, in accordance with LAC 46:XLVII.4005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), R.S. 37:921, and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 7:74 (March 1981), amended LR 19:

Comments concerning the proposed rules may be directed in writing, until May 15, 1993, to Barbara L. Morvant, RN, Executive Director, Board of Nursing, 150 Baronne Street, Suite 912, New Orleans, LA 70112.

Barbara Morvant, M.N., R.N.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: DISCIPLINARY PROCEEDINGS

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated implementation costs or savings to the Louisiana State Board of Nursing.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenue collections by the Louisiana State Board of Nursing or any other state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no anticipated material effect on costs or workload of the registered nurse who is not HIV nor HBV seropositive and who already follows the guidelines of the Federal Centers for Disease Control. Failure to report one's seropositive status for HIV or HBV in accord with LAC 46:XLVII.4005, or failure to practice in accord with the proposed LAC 46:XLVII.Chapter 40, may result in suspension of license or other disciplinary measure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated if the register nurse practices in accord with any restriction necessary to protect the health and welfare of the patients. Failure to appropriately report one's HIV or HBV seropositive status or failure to abide by any restriction which may be necessary to protect the health and welfare of the patients may result in disciplinary action against such licensee.

Barbara Morvant, M.N., R.N.
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Prevention of Transmission of HBV and HIV (LAC 46:XLVII.Chapter 40)

Notice is hereby given that the Louisiana State Board of Nursing, under the authority of R.S. 37:918.K, and in accord with R.S. 37:1746-1747 and R.S. 49:950 et seq., intends to adopt rules prescribing practice and reporting requirements for registered nurses and registered nurse applicants to protect the public from the risk of the transmission of hepatitis B (HBV) and human immunodeficiency virus (HIV).

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses
Subpart 2. Registered Nurses
Chapter 40. Prevention of Transmission of Hepatitis B
Virus (HBV) and Human
Immunodeficiency Virus (HIV)

§4001. Definitions

For the purpose of this Chapter, the following terms are defined as follows:

Board—Louisiana State Board of Nursing.

Body fluids—amniotic, pericardial, peritoneal, pleural, synovial and cerebrospinal fluids, semen, vaginal secretions and other body fluids, secretions and excretions containing visible blood.

Confidentiality

1. Reports and information furnished to the board pursuant to §4005 of this Chapter and records of the board relative to such information shall not be deemed to constitute

public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; providing that such reports, information and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

2. The identity of registered nurses and registered nurse applicants who have reported their status as carriers of HBV or HIV to the board's nursing consultant for compliance pursuant to §4005 hereof shall be maintained in confidence by the nursing consultant for compliance and shall not be disclosed to any member, employee, agent, attorney or representative of the board nor to any other person, firm, organization, or entity, government or private, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter.

Exposure-prone procedure—an invasive procedure in which there is risk of percutaneous injury to the registered nurse or registered nurse applicant by virtue of digital palpations of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the fingers of a registered nurse or registered nurse applicant and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the registered nurse or registered nurse applicant and the blood or body fluids of the patient.

HBV—the hepatitis B virus.

HBsAg seropositive—with respect to a registered nurse or registered nurse applicant, that a blood test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B e antigen.

HBsAg seropositive—with respect to a registered nurse or registered nurse applicant, that a blood test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B surface antigens and that no subsequent test has confirmed that hepatitis B surface antigens are no longer present.

HIV—the human immunodeficiency virus, whether HIV-1 or HIV-2.

HIV seropositive—with respect to a registered nurse or registered nurse applicant, that a test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of HIV antibodies.

Invasive procedures—any procedure involving manual or instrumental contact with, or entry into, any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane or percutaneous wound of the human body.

Participating in an exposure-prone procedure—the preparation, processing, handling of blood, fluids, tissue or instruments which may be introduced into or come into contact with any body cavity, internal organ, subcutaneous tissue, submucosal tissue, mucous membrane or percutaneous wound of the human body in connection with the performance of an invasive procedure.

Registered nurse—an individual licensed as a registered nurse in Louisiana, or an individual licensed as a registered nurse in another state and holding a 90-day permit to practice nursing in Louisiana in accordance with R.S. 37:920.

Registered nurse applicant—a graduate of an approved school of nursing who has been issued a temporary working permit, as provided for in R.S. 37:920.C.

Universal precautions—those generally accepted infection control practices, principles, procedures, techniques and programs as recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV or HIV from a registered nurse or a registered nurse applicant to a patient, from a patient to a registered nurse or registered nurse applicant, or from a patient to a patient, as such recommendations may be amended or supplemented from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§4003. Universal Precautions

A. All registered nurses and registered nurse applicants shall adhere to universal precautions for the prevention of transmission of infectious diseases as recommended by the Federal Centers for Disease Control for infection-control programs. These precautions include the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments.

B. Registered nurses and registered nurse applicants who have exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient-care equipment and devices used in performing invasive procedures until the condition resolves.

C. Registered nurses and registered nurse applicants shall also comply with employing agency's current guidelines for disinfection and sterilization of reusable devices used in invasive procedures.

D. Registered nurses and registered nurse applicants who perform invasive procedures not identified as exposure-prone, and who are or become infected with HIV or HBV, shall practice standard surgical or dental technique and comply with universal precautions and current standards for sterilization/disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§4005. Self-Reporting

A. Within 90 days of the effective date of this Chapter, registered nurses and registered nurse applicants who perform, or participate in, exposure-prone procedures and have been previously diagnosed as HBV seropositive and/or HIV seropositive shall give notice of such diagnosis to the board on a reporting form supplied by the board. Such notice shall be mailed to the nursing consultant for compliance, marked "Personal and Confidential" by registered or certified mail. This report shall be confidential as provided in §4001 of this Chapter, definition of confidentiality.

B. Registered nurses and registered nurse applicants who know or should know that they carry and are capable of

transmitting HBV or HIV and who perform or participate in exposure-prone procedures shall report their status to the Board of Nursing within 30 days from the date of the performance of the diagnostic test. They shall give notice of such diagnosis to the board on a reporting form supplied by the board which shall be mailed to the nursing consultant for compliance, marked "Personal and Confidential," by registered or certified mail. This report shall be confidential as provided in Act 1009 of the 1991 Louisiana Legislature.

C. Provided that the identity of the self-reporting registered nurse or registered nurse applicant is not disclosed, either directly or indirectly, the provisions of this Section shall not be deemed to prevent disclosure by the nursing consultant for compliance or the board, to governmental public health agencies with a legitimate need therefor, of statistical data derived from such reports, including, without limitation, the number and demographics of registered nurses and registered nurse applicants having reported themselves as HBsAg and/or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§4007. Authorization to Perform or Participate in Exposure-Prone Procedures

A. Registered nurses and registered nurse applicants who perform or participate in exposure-prone procedures shall, in the performance of or participation in any such procedure or function, be familiar with, observe, and rigorously adhere to both general infection control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of HBV or HIV from a registered nurse or registered nurse applicant to a patient, from a patient to a registered nurse or registered nurse applicant, or from a patient to a patient.

B. Registered nurses and registered nurse applicants who perform or participate in exposure-prone procedures and who do not have serologic evidence of immunity to HBV from previous infection, and have not been vaccinated against HBV, shall obtain their HBsAg status and, if that is positive, shall also obtain their HBeAg status.

C. Registered nurses and registered nurse applicants who are infected with HIV or HBV (and are HBeAg positive) shall not perform exposure-prone procedures unless they have sought periodic counsel from an expert review panel, as determined by the expert panel, and have been advised under what circumstances, if any, they may continue to perform these procedures.

D. An expert review panel, appointed by the Board of Nursing, shall be constituted of the nursing consultant for compliance, and at least four members representing a balanced perspective, such as one or more of each of the following: a licensed psychiatrist or psychologist, the licensee's personal physician, a member of the agency's infection control committee (if agency has such committee), a registered nurse who is an infectious disease specialist with expertise in the procedures performed by the infected licensee, a state or local public health official.

E. Patients of the seropositive registered nurse or registered

nurse applicant shall be notified of the registered nurse's seropositivity before they undergo exposure-prone invasive procedures in which the nurse will participate or perform. If the nurse will perform the procedure, an informed consent shall be obtained from the patient or a lawfully authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

Comments concerning the proposed rules may be directed, in writing, until May 15, 1993, to Barbara L. Morvant, RN, Executive Director, Louisiana State Board of Nursing, 150 Baronne Street, Suite 912, New Orleans, LA 70112.

Barbara Morvant, M.N., R.N.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prevention of Transmission of HBV and HIV

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated implementation costs or savings to the Louisiana State Board of Nursing
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenue collections by the Louisiana State Board of Nursing or any other state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no anticipated material effect on costs or workload of the registered nurse who is not HIV nor HBV seropositive and who already follow the guidelines of the Federal Centers for Disease Control. Registered nurses who are seropositive and who perform or participate in exposure-prone invasive procedures may experience a limitation on their practice which is necessary for the protection of the patients.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No material impact on competition or employment is anticipated. However, the practice of a relatively small number of registered nurses who are seropositive and who perform or participate in exposure-prone invasive may be restricted if this is necessary to protect the health and welfare of the patients.

Barbara Morvant, M.N., R.N.
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Additional Disproportionate Share-Indigent Days Pool

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is exercising the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., to adopt the following rule in the Medicaid Program.

Medicaid currently reimburses for inpatient care in either a free-standing psychiatric hospital or an acute care general hospital with a methodology which includes an adjustment for hospitals serving a disproportionate share of low-income patients as well as an additional disproportionate share adjustment which utilizes different qualifying criteria and payment adjustment methodology. Previously there has been no limit on the amounts of disproportionate share adjustment payments, but as a result of Public Law 102-234, a national and statewide cap has been placed on disproportionate share adjustment payments beginning October 1, 1992. Louisiana is already over the base state allotment for disproportionate share payments of 12 percent of its total Medicaid expenditures projected for federal fiscal year (FFY) 1993, and is therefor capped at the amount of disproportionate share expenditures in FFY 1992. In federal regulations promulgated November 24, 1992 (FR Vol. 57, No. 227, pages 55118-55265), the national cap of 12 percent is projected to also be exceeded, resulting in reductions to each state's allotment proportional to the percentage of each state's DSH base allotment to the total of all state DSH base allotments multiplied by the amount that all state DSH base allotments exceed the aggregate national 12 percent DSH spending limit. As Louisiana is a high DSH state and already projects disproportionate share payments in FFY 93 in excess of its allotment, a change in the methodology for determining disproportionate share adjustment payments is being implemented to ensure that DSH expenditures remain within the cap imposed by P. L. 102-234 and the HCFA regulations promulgated to implement this law. This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This proposed rule will ensure that other services for health care to the needy of the state would remain available as otherwise reductions in these services may result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap. An emergency rule was adopted on January 1, 1993 and published in the January 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 1, on disproportionate share payments based on a pool of indigent days.

PROPOSED RULE

The Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient hospital services to provide for an additional disproportionate share payment for hospitals which utilizes

payment based on the number of indigent care inpatient days (exclusive of Medicaid inpatient days) in a pool of all such days for all qualifying disproportionate share hospitals. Qualifying hospitals whose free care data does not reflect a full year shall have days annualized for purposes of the pool. A lump sum payment will be made annually to each disproportionate share hospital equal to the product of the ratio of each hospital's total indigent care days in the prior state fiscal year, divided by the total indigent inpatient days in the same period by all disproportionate share hospitals, multiplied by an amount of funds to be determined by the director of the Bureau of Health Services Financing, but not to exceed in the aggregate the total cap on disproportionate share expenditures established under P. L. 102-234.

All hospital indigent care (free care) plans must be submitted to and approved by the Bureau of Health Services Financing and may not exceed the income eligibility criteria established under Hill-Burton criteria of 200 percent of the federal poverty level.

This additional disproportionate share payment may be payable to all qualifying disproportionate share hospitals (acute care general, free-standing psychiatric hospitals, and distinct part psychiatric units) in addition to other disproportionate share payments.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing is scheduled on this matter at 9:30 a.m., Tuesday, May 25, 1993, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. Copies of this proposed rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: DISPROPORTIONATE SHARE PAYMENTS-INDIGENT POOL

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to decrease state expenditures by zero dollars in SFY 1992-93, \$24,550,526 in SFY 1993-94, and \$25,636,504 in 1994-95.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to decrease federal revenue by zero dollars in SFY 1992-93, \$68,268,098 in SFY 1993-94, and \$67,182,120 in SFY 1994-95.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Additional disproportionate share payments to providers of inpatient hospital services will decrease by zero dollars in 1992-93 and by \$92,818,624 in 1993-94 and in 1994-95.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Block Grant for Maternal and Child Health

The Department of Health and Hospitals (DHH) intends to apply for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1993-94 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register*, Vol. 47, No. 129, Tuesday, July 6, 1982, pages 29472-29493. DHH will continue to administer programs funded under the MCH Block Grant in accordance with provisions set forth in Public Law 97-35 and the federal regulations. The Office of Public Health is the office responsible for program administration of the grant.

A public hearing on the Block Grant is scheduled for 1 p.m., Tuesday, May 25, 1993, Department of Health and Hospitals, Third Floor Conference Room A, 1201 Capitol Access Road, Baton Rouge, LA. At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed Block Grant orally or in writing. Written comments will be accepted through June 10, 1993. Comments may be addressed to Larry Hebert, M.D., Assistant Secretary, Office of Public Health, 8550 United Plaza Boulevard, Suite 300, Baton Rouge, LA. The block grant application is available for review at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, or at any regional OPH facility.

J. Christopher Pilley
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: MATERNAL AND CHILD HEALTH
BLOCK GRANT**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This block was implemented in FY '82. Neither an increase nor a decrease in implementation costs is expected, as DHH will continue to administer these programs in accordance with

existing federal and state laws and regulations. No workload change is anticipated, as the same amounts and kinds of services are expected to be delivered.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections is anticipated. Naturally, if the federal allotment to Louisiana for this block decreases, the state will be required to subsequently decrease the allotment to all programs covered under the block, but this is a factor beyond our control. The amount of the allocation for Louisiana for FY 93-94 is expected to be \$14,329,460 which is the same amount as FY 92-93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No direct effect is anticipated on patients, groups, units of local government or state agencies other than DHH.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect is anticipated on competition and employment, as the same kinds and amounts of services are to be offered. Should the amount of federal funds eventually appropriated be at such a decreased level as to warrant reductions in staff, unemployment will result.

Larry J. Hebert, M.D.
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Hospital Neurological Rehabilitation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is proposing to adopt the following rule providing for the reimbursement of hospital-based neurological rehabilitation care services in the Medicaid Program. This proposed rule is being published in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The provisions of this proposed rule were adopted as an emergency rule on January 1, 1993 which was published in the January 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 1.

Currently, hospitals are limited to the discharge rate and unable to cover their costs for providing neurological rehabilitation treatment services. This is due to the lack of an established reimbursement mechanism which covers the intensive services, specialized equipment and the program of rehabilitative care required for these patients. In-state hospitals capable of providing such services are reluctant to accept them due to the adverse effect on their overall reimbursement. Therefore, in order to meet the needs of Louisiana citizens, Medicaid of Louisiana is implementing a new reimbursement methodology to be identified as Intensive Neurological Rehabilitation Care Program. Medicaid of

Louisiana has developed the medical criteria for the classification and reimbursement of this patient group who need a program of intense neurological rehabilitation care.

PROPOSED RULE

The Bureau of Health Services Financing shall implement a reimbursement methodology for an Intensive Neurological Rehabilitation Care Program in the hospital setting. This program is developed to meet the needs of Louisiana citizens who are Medicaid eligible and require intense rehabilitation care services for neurological injuries of recent onset. Hospital Intensive Neurological Rehabilitation Care services should extend throughout the post critical care recovery process not to exceed 90 days unless deemed medically necessary by the Department of Health and Hospitals.

The Intensive Neurological Rehabilitation Care Program reimbursement rates shall be prospective interim rates based on actual cost data. A rebasing of these initial rates shall occur, if warranted, after a full year of implementation of this program. This rebasing of the rates shall be based on actual costs as determined by on-site audits of cost reports. Subsequent rate adjustments may be made as warranted by on-site financial audits of the facility's actual costs so that future rates will be in accordance with audit findings and the accuracy of the rate components utilized in the determination process. Annual audits will be required as well as the submittal of additional cost reporting documents as required by the department.

Medicaid of Louisiana has developed the medical criteria which must be met in order for a Title XIX patient to be classified for reimbursement under a hospital Intensive Neurological Rehabilitation Care Program. The hospital intensive neurological rehabilitation care services provide intensive, comprehensive, and interdisciplinary services to persons with an injury or illness resulting in residual severe deficits and disability in addition to a need for intensive medical support. The service needs are designed to reduce the patient's rehabilitation and medical needs while restoring the person to an optimal level of physical, cognitive, and behavioral function. The services provide care for patients who present with a variety of medical/surgical concerns requiring a highly skilled level of nursing, medical, and/or rehabilitation interventions to maintain medical/functional stability. These patients are essentially too medically complex or demanding for a nursing rehabilitation setting and require the acute hospital setting.

Patients in need of hospital neurological intensive rehabilitation care services shall meet the following requirements.

1. The patient shall have an injury or condition that occurred within 48 hours prior to the date of admission for inpatient care. Patients served shall have severe loss of central nervous system functions as a result of a neurological injury or condition.

2. The patient shall have been determined, by a physician, to be appropriate for rehabilitation in the hospital setting to recover lost function or appropriate for assessment for determination of functional recovery potential.

3. The patient shall require five hours of rehabilitation

therapy services, per day, as tolerable and appropriate, and a minimum of five hours of nursing care per day by licensed nurses. Rehabilitation therapy services will be available and provided, as tolerable and appropriate, at least five days per week. Examples of patients to be considered include, but are not limited to:

- a. traumatic brain injury;
 - b. cerebral vascular accidents with severe neurologic insult;
 - c. neoplasms of the central nervous system;
 - d. neuro behavioral sequelae to the above.
4. The patient shall have complete neurological/medical/psychosocial assessments completed prior to admission to an Intensive Neurological Rehabilitation Care Program:
- a. history of current condition;
 - b. presenting problems and current needs;
 - c. preliminary plan of care including services to be rendered;
 - d. initial goals and time frames for goal accomplishment.

These assessments shall clearly demonstrate the patient's need for this care and expected benefits.

5. The patient shall have an assigned facility case manager to monitor and measure goal attainment and functional improvement. The facility case manager will be responsible for cost containment and appropriate utilization of services. The facility case manager will coordinate discharge planning activities if it has been determined that hospital intensive neurological rehabilitation care services are no longer required or appropriate.

6. The patient shall demonstrate progress toward the reduction of physical, cognitive, and/or behavioral deficits to maintain eligibility for hospital intensive neurological rehabilitation care services funding.

The hospital seeking to provide services under this hospital Intensive Neurological Rehabilitation Care Program must meet the following requirements:

1. The hospital shall be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and by the Commission on Accreditation of Rehabilitation Facilities (CARF).

2. The hospital shall have appropriate rehabilitation services to manage the functional and psychosocial needs of the patients' services and appropriate medical services to evaluate and treat the pathophysiologic process. The staff shall have intensive specialized training and skills in rehabilitation.

3. The hospital shall have formalized policies and procedures to govern the comprehensive skilled and rehabilitation nursing care, related medical and other services provided. An interdisciplinary team approach shall be utilized in patient care. This team shall include, but is not limited to: a physician, a registered nurse (with special training/experience in rehabilitation and brain injury care/treatment), physical therapist, occupational therapist, speech/language therapist, respiratory therapist, psychologist, social worker, recreational therapist, and case manager.

4. The hospital shall have formalized policies and procedures to insure that the interdisciplinary health and

rehabilitation needs of every hospital intensive neurological rehabilitation care patient shall be under the supervision of a licensed physiatrist, board certified in physical medicine and rehabilitation.

5. The hospital shall have formalized policies and procedures to insure a licensed physician visits and assess each patient's care frequently and no less than required by law, licensure, certifications and accreditations.

6. The hospital shall have formalized policies and procedures to furnish necessary medical care.

7. The hospital shall provide private rooms for patients demonstrating medical and/or behavioral needs. Dedicated treatment space shall be provided for all treating disciplines including the availability of distraction-free individual treatment rooms/areas.

8. The hospital shall provide 24-hour nursing services to meet the medical and behavioral needs with registered nurse coverage 24 hours per day, seven days per week.

9. The hospital shall provide appropriate methods and procedures for dispensing and administering medications and biologicals.

10. The hospital shall have formalized policies and procedures for, and shall provide on a regular basis, ongoing staff education in rehabilitation, respiratory care, specialized medical services and other related clinical and non-clinical issues.

11. The hospital shall provide dietary services to meet the comprehensive nutritional needs of the patients. These services shall be provided by a registered dietician for a minimum of one hour per week.

12. The hospital shall provide patients' families and significant others the opportunity to participate in the coordination and facilitation of service delivery and personal treatment plan.

13. The hospital shall provide initial and ongoing integrated, interdisciplinary assessments to develop treatment plans which should address medical/neurological issues sensorimotor, cognitive, perceptual, and communicative capacity, affect/mood, interpersonal, social skills, behaviors, ADLs, recreation/leisure skills, education/vocational capacities, sexuality, family, legal competency, adjustment to disability, post-discharge services environmental modifications, and all other areas deemed relevant for the person.

14. The hospital shall provide a coordinated, interdisciplinary team which meets in team conference to update the treatment plan for each person at least every seven days and as often as necessary to meet the changing needs of the patient.

15. The hospital shall provide appropriate consultation and services to meet the needs of the patients, including but not limited to audiology, speech, orthotics, prosthetic, or any specialized services.

16. The hospital shall establish protocol for ongoing contact with vocational rehabilitation education, mental health, developmental disabilities, social security, social welfare, head injury advocacy groups and any other relevant public/community agencies.

17. The hospital shall establish protocol for close working relationships with other acute care hospitals capable

of caring for persons with neurological trauma to provide for outpatient follow up, in-service education and ongoing training of treatment protocols to meet the needs of the traumatic brain injury patients.

18. The hospital shall document the patient's progress in meeting goals in detail. If appropriate progress is not made or if goals are attained, the patient shall not be eligible for this program and the case manager shall coordinate discharge plans.

19. The hospital shall have policies and procedures to prevent admitting a patient to this program whose needs the hospital cannot meet.

20. The hospital shall not admit a patient to this program whose needs can be met at a lesser level of care.

21. The hospital shall make certain all professional and non-professional staff requiring licenses are duly licensed by the appropriate licensing authority.

Implementation of this rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this proposed rule and current policy will remain in effect. Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on this matter is scheduled for Tuesday, May 25, 1993. Copies of this proposed rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

J. Christopher Pilley
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: HOSPITAL NEUROLOGICAL
REHABILITATION PROGRAM**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule is projected to increase state expenditures by \$6,403 in SFY 1992-93, \$8,549 in SFY 1993-94 and \$6,839 in 1994-95.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule is projected to increase federal revenue by \$18,358 in SFY 1992-93, \$18,212 in SFY 1993-94, and \$17,922 in SFY 1994-1995.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Reimbursement rates to providers of hospital-based neurological rehabilitation will increase by \$24,761 in 1992-93, \$24,761 in 1993-94; and \$24,761 in 1994-95 for approximately 12 beneficiaries each year.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This proposed rule will have no known impact on competition or employment

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Medicaid Countable Resources

The Department of Health and Hospitals Office of the Secretary, Bureau of Health Services Financing, is proposing to exercise the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., to adopt the following rule in the Medicaid Program.

Under Title XIX of the Social Security Act, Medicaid is not available to individuals whose countable resources are in excess of \$2,000 regardless of income. Exemption of resources has historically been limited to home property where the beneficiary resides, personal belongings, and one vehicle. All other resources have been classified as countable with the exception of certain trust arrangements which are reviewed individually to determine whether they are countable or excludable. The application of this policy has resulted in unequal treatment of individuals based on the source of their retirement incomes. For example, retirement benefits such as Social Security, federal employees', state employees', and company pension plans which have no cash surrender value are not considered resources. Only the income received by the individual is considered in determining eligibility for Medicaid coverage.

However, annuities, individual retirement accounts, and other employee retirement plans which are controlled by the individual are considered countable resources and thereby subject to the \$2,000 federal limit. Individuals who have access to their total retirement funds are denied health care coverage under Medicaid until they have expended all but \$2,000 of their retirement funds. As a result, these individuals are forced into poverty with no means of future self-sufficiency prior to being covered by Medicaid. For individuals who have catastrophic medical conditions or are institutionalized for extended periods of time, this policy results in the impoverishment of individuals who would otherwise remain self-sufficient following receipt of needed medical treatment.

Based on review of the federal requirements on exclusion of certain resources and consultation with the Health Care Financing Administration, Medicaid of Louisiana has developed an exclusion policy allowing individuals to purchase qualifying income annuities which will be excluded from countable resources in determining eligibility for Medicaid health care coverage. Under this change in policy, an individual may utilize countable resources such as stocks, bonds, certificates of deposit, etc., to purchase a qualifying income annuity which provides a predictable monthly income to the individual during the term of the annuity. Such purchases shall be considered an allowable conversion of resources where the qualifying income annuity is payable to the purchaser under specific guidelines and limitations. The guidelines and limitations placed on qualifying income

annuities have been developed to assure individuals are treated fairly and equitably in determining eligibility for Medicaid health care coverage and prevent utilization of annuities as a means of sheltering potential income from consideration in the determination of eligibility for Medicaid based on income limits and post eligibility application of income towards the cost of medical care. It is estimated that implementation of this proposed rule will cost approximately \$4 million per year.

PROPOSED RULE

The Bureau of Health Services Financing is proposing that countable resources, such as certificates of deposit, stocks, bonds, etc., which are used to purchase an income annuity of equal value shall not be considered a transfer of resources where no change in ownership occurs. Such purchases shall be considered an allowable conversion and all payments from income annuities shall be considered income in the month received for determining Medicaid eligibility and post eligibility treatment of income. To qualify as an "income annuity" the annuity shall meet the requirements of minimum distribution incidental benefit (MDIB) rules defined in the Internal Revenue Code, Section 401(a)(9) and proposed Internal Revenue Service regulations Section 1.401(a)(9)-1 and -2. These MDIB requirements assure that annuities purchased under qualified pension plans result in distributions primarily to the participant and that beneficiaries are only incidental recipients. These annuities may be (1) for a period certain without a life contingency (2) for the life of the participant with no period certain, (3) a joint and survivors annuity, (4) or a life annuity and a period certain. The Internal Revenue Service rules mentioned above define the terms of the annuity as these relate to the age of the participant and any beneficiary and the schedule of benefits payable to satisfy the MDIB requirement.

To meet the conditions of this rule the annuity must provide the purchaser with regular scheduled distributions in accordance with MDIB requirements.

Implementation of this proposed rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect. Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this rule. A public hearing on this matter is scheduled for Tuesday, May 25, 1993. At that time persons may present views and/or data orally or in writing. Copies of this proposed rule and all other Medicaid rules and regulations are available at Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: MEDICAID COUNTABLE RESOURCES

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO

STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to increase state expenditures by \$100,666 in SFY 1993-94; and \$250,923 in 1994-1995. There is no expenditure increase in SFY 1992-1993.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule is projected to increase federal revenue by \$758,495 in SFY 1992-93; \$3,316,470 in SFY 1993-94; and \$3,596,260 in SFY 1994-95.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Reimbursement payments to providers of long term care services will increase during the next three years due to the increased opportunity for potential Medically Needy beneficiaries to utilize such services. The state costs shown above will result from refinancing these services under Medicaid from the state's Elder Care Program in the Office of Elderly Affairs. Payments will increase by \$1,923,058 in SFY 1993; \$4,509,136 in SFY 1994; and \$4,968,583 in SFY 1995 for approximately 260 persons who may become eligible under the Medically Needy Program through adoption of this proposal. These individuals will benefit by the receipt of partial Medicaid support for their care as opposed to the current use of personal and state support to finance their care.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Medicaid Days Pool

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is exercising the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. to adopt the following rule in the Medicaid Program.

Medicaid implemented via emergency rulemaking published in the January 20, 1993, *Louisiana Register* (Volume 19, Number 10, pages 7-8) a change in the methodology for calculating disproportionate share adjustment payments to teaching and non-teaching hospitals as well as distinct part psychiatric units of acute care general hospitals. A similar rule placing a cap on reimbursement to freestanding psychiatric hospitals, including disproportionate share payments was also published in the January 20, 1993 *Louisiana Register* (Volume 19, Number 10, pages 19-20). These rules were intended to modify the methodology for calculating disproportionate share payments to ensure compliance with the cap on disproportionate share adjustment

payments as a result of Public Law 102-234. Further evaluation of the issue has indicated that the January 1, 1993 changes will not ensure that the cap is not exceeded in federal fiscal year 1993 (FFY 93). Restructuring of the methodology is necessary to ensure compliance with the cap established under Public Law 102-234 and federal regulations published November 24, 1992 (*Federal Register*, Volume 57, Number 227, pages 55118-55265). Therefore, the above referenced rules published effective January 1, 1993 are rescinded and superseded by the following rules, subject to review and approval by HCFA. If federal approval is not received, the above referenced rules published effective January 1, 1993 shall remain in effect. This action is necessary to reduce the projected DSH payments to a level that will remain under the cap. This proposed rule will ensure that other services for health care to the needy of the state would result if the cap is exceeded and the state must bear the full burden of DSH payments in excess of the cap. An emergency rule was adopted on this subject on March 1, 1993 and was published in the March 20, 1993 issue of the *Louisiana Register*, Volume 19, Number 3 and a clarifying emergency rule adopted April 1, 1993 is published in this issue of the *Louisiana Register*.

PROPOSED RULE

The Department of Health and Hospitals, Bureau of Health Services Financing shall amend the methodology for calculating the amount of disproportionate share payments for inpatient hospital services by acute care general hospitals, distinct part psychiatric units of acute care general hospitals and free-standing psychiatric hospitals. Below are the revised methodologies as modified in the State Plan.

Attachment 4.19A, Items 1, 14 and 16

Methodology for Disproportionate Share Adjustment

Effective for dates of service March 1, 1993 and after, qualification for and calculation of disproportionate share payments shall be based on the latest filed fiscal year end cost report as of March 31 of each year. Hospitals which meet the qualification criteria outlined in Item 1, D. 1. a-d, based on the latest filed fiscal year end cost report as of March 31 of each year, shall be included in one of the three following pools for calculation of disproportionate share adjustment payments. A one time provision for transition to the new methodology for disproportionate share payments shall provide that hospitals filing a minimum of a three month interim cost report and which meet all qualification criteria shall be "grandfathered" into the pools. Qualifying hospitals with cost reports which do not reflect a full year shall have days annualized for purposes of the pools.

Qualifying disproportionate share hospitals with Medicaid utilization rate percentages equal to the Medicaid utilization's qualifying threshold (the mean plus one standard deviation of the Medicaid utilization for all such hospitals in the state participating in Medicaid) plus 25 percent shall be recognized as "Medicaid dependent hospitals". Medicaid dependent hospitals shall have days in the pool weighted by applying a factor of up to 1.25 to actual days in the pool. In determining pool payments, days for Medicaid dependent hospitals shall be increased by the factor noted above. Disproportionate share payments for each pool shall be calculated based on the

product of the ratio of each qualifying hospital's total Medicaid inpatient days for the applicable cost report as adjusted for annualization and Medicaid dependent status, divided by the total Medicaid inpatient days provided by all such hospitals in the state qualifying as disproportionate share hospitals in their respective pools, multiplied by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Disproportionate share payments cumulative for all payments shall not exceed the federal disproportionate share cap for each federal fiscal year. Notice of the actual pool amounts shall be published prior to the issuance of the first payment each year. The total disproportionate share payment amount for each qualifying hospital shall be calculated after March 31 of each year and payments shall be issued via at least three payments throughout the year for services in the immediately preceding months. Monthly payments may be issued for a transition period from April through October 1993 to allow hospitals to adjust to cash flow changes in disproportionate share payments. The three pools are as follows:

1. *Teaching hospitals*—acute care general hospitals (exclusive of distinct part psychiatric units) recognized as approved teaching hospitals under Medicare principles for the latest filed fiscal year end cost report as of March 31 of each year.

2. *Non-teaching hospitals*—acute care general hospitals (exclusive of distinct part psychiatric units) not recognized as approved teaching hospitals under Medicare principles for the latest filed fiscal year end cost report as of March 31 of each year.

3. *Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals*—distinct part psychiatric units of acute care general hospitals meeting the Medicare criteria for PPS exempt psychiatric units and enrolled under a separate Medicaid provider, and free-standing psychiatric hospitals recognized as such for the latest filed fiscal year end cost report as of March 31 of each year.

If at audit or final settlement of the pool base(s) cost reports, the above qualifying criteria are not met, or the number of Medicaid inpatient days are reduced from those originally reported or annualized, appropriate action shall be taken to recover such overpayments. No additional payments shall be made if an increase in days is determined. No redistribution of the "pool" shall occur because of changes resulting from adjustments at audit/settlement or subsequent amending of cost reports.

Implementation of this proposed rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9:30 a.m., Tuesday, May 25, 1993, DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an

opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: DISPROPORTIONATE SHARE PAYMENTS
MEDICAID DAYS POOLS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to decrease state expenditures by \$70,238,863 in SFY 1993-94 and \$91,118,529 in 1994-95. The effect in SFY 92-93 will be insignificant due to the lag in claims submitted.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to decrease federal revenues by \$195,314,494 in SFY 1993-94 and \$238,782,010 in SFY 1994-95. Federal revenue will not be significantly impacted in SFY 92-93 as the impact will be delayed to SFY 93-94 due to lag in claims submitted.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Disproportionate share payments to qualifying providers of inpatient hospital services will decrease by \$265,553,357 in 1993-94; and \$329,900,539 in 1994-95.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

Regulation 41-Costs of Defense within Limits

Under the authority of R.S. 22:3 and R.S. 49:950 et seq., the Commissioner of Insurance hereby gives notice of his intent to adopt the following proposed regulation, effective July 20, 1993. The regulation will establish guidelines for the use of "defense costs within limits" policy provisions in Louisiana.

PROPOSED REGULATION 41

For the purposes of this regulation, defense costs shall mean attorney's fees and other associated costs of defending an insurance liability claim. Effective with the promulgation of this regulation, policy forms of admitted companies providing for the payment of defense costs within the limits of liability

of the policy shall be considered for approval for the following types of insurance:

1. liability insurance for directors and officers;
2. liability insurance for architects;
3. liability insurance for engineers;
4. liability insurance for Certified Public Accountants.

SYNOPSIS

Proposed Regulation 41 sets out the categories of liability insurance marketed in this state which will be allowed to use "defense costs within limits" provisions in their policies. "Defense costs within limits" means that the cost of defending a suit is encompassed within the limits of liability on the policy rather than a cost borne by the insurer over and above the liability limits. The categories listed in the regulation are all professional liability or errors and omissions policies. This is a fairly sophisticated market so there is little chance of the insured under such a policy not understanding that the cost of defending a suit comes out of the same pool of funds available for payment of a judgement.

A public hearing on the proposed regulation will be held on Friday, May 28, 1993 at 1:30 p.m. in the Plaza Hearing Room of the Insurance Building, 950 North Fifth Street, Baton Rouge, LA. All interested parties will be afforded an opportunity to be heard.

Written comments may be submitted on the proposed regulation until 4:30 p.m., Friday, May 28, 1993 to: C. Noel Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: REGULATION 41-COSTS OF DEFENSE
WITHIN LIMITS**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department that would require funding for additional personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is not anticipated that this regulation will impose any additional costs to the insurers or the insureds. At the present time only surplus lines carriers are providing this type of coverage. Surplus lines carriers are not regulated by the Louisiana Department of Insurance so their insurance policy forms already reflect "defense costs within limits" provisions.

Adoption of this regulation would allow the admitted carriers, which are regulated by the Louisiana Department of Insurance,

to include these provisions in their policy forms and would encourage them to write this type of insurance coverage.

Since the defense costs would be included in the liability limits of the insurance policy written by the admitted carriers it is possible that the insurance premium rates would be less than the insurance premium rates of the surplus lines carriers. This could possibly create a savings for the insureds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Adoption of this regulation could possibly cause a shift in competition in the insurance market as to who will write this type of insurance such as shifting from surplus lines carriers to admitted carriers. It is not anticipated that there would be any impact on employment.

Brenda St. Romain
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Justice
Office of the Attorney General
Public Protection Division**

Open Housing Act (LAC 16:I.101)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 51:2610(A), as amended, which delegates the authority of administering the Open Housing Act to the Department of Justice, Office of the Attorney General, and R.S. 36:702(3) which authorizes the attorney general to alter, amend, and promulgate rules and regulations necessary for the administration of the functions of the department, notice is hereby given that the Department of Justice, Office of the Attorney General, advertises its intent to adopt the following rule which will enable the Open Housing Act (R.S. 51:2601 et seq.) to be considered substantially equivalent to the Fair Housing Act.

The rule will authorize the attorney general to determine which program to assist elderly persons qualifies for an exemption for familial status exemption under the Louisiana Housing Act.

The rule will also provide that the attorney general must publish all conciliation agreements, dispose of any complaint within one year, and only file civil actions against those individuals who have been served with a copy of the complaint in accordance with law and advised of their rights.

Title 16

**COMMUNITY AFFAIRS
Part I. Open Housing Act**

Chapter 1. Administration

§101. Rules of Procedure

A. In order for a program to qualify for an exemption under the Louisiana Open Housing Act, more particularly R.S. 51:2605(C) thereof, the attorney general or his designee must determine that a program is specifically designed and operated to assist elderly persons, which determination must be consistent with the secretary of the Department of Housing and

Urban Development under Section 807(b)(2) of the Fair Housing Act.

B. Any conciliation agreement arising out of conciliation efforts by the attorney general or his designee shall be made public unless the complainant and respondent otherwise agree and the attorney general or his designee determine that disclosure is not required to further the purposes of the Louisiana Open Housing Act.

C. Final administrative disposition of a complaint by the attorney general or his designee shall take place within one year of the date of receipt of a complaint, unless it is impractical to do so at which time the attorney general or his designee shall notify the complainant and respondent in writing for the reasons of the delay.

D. Any civil action filed by the attorney general or his designee requesting relief pursuant to R.S. 51:2614(A) shall be brought only against those respondents or persons charged pursuant to R.S. 51:2611 who have been served with a copy of the complaint in accordance with law and advised of their rights and obligations under the law and only after an opportunity to conciliate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2610(A), as amended, and R.S. 36:702(3).

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, Public Protection Division, LR 19:

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Interested persons may comment on the proposed rules, in writing, until 4:30 p.m., May 20, 1993, at the following address: David C. Kimmel, Deputy Director, Public Protection Division, Department of Justice, Box 94095, Baton Rouge, LA 70804-9095.

David C. Kimmel
Deputy Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: OPEN HOUSING ACT**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated costs or savings to the state or local governmental units to implement the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections for the state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs or benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Implementation of this proposed rule will have no effect on competition or employment.

David C. Kimmel
Deputy Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

Insurance Cost Containment (LAC 40:I.Chapter 11)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and R.S. 23:1291, the Department of Labor, Office of Workers' Compensation is hereby giving notice of its intent to adopt the following rule in the Workers' Compensation Cost Containment Program.

These rules are adopted to establish and implement the "Workers' Compensation Cost Containment Act" enacted by acts 1991, No. 1026, in order to implement effective injury control measures for employers in high rate classification with insurance experience modifier rates of 1.5 or greater.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 11. Workers' Compensation Insurance Cost Containment

§1101. Purpose

The purpose of these rules is to establish and implement effective injury control measures for employers in high rate classifications with insurance experience modifier rates of 1.5 or greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1103. Forms—Preparation and Adoption—Use

A. The Office of Workers' Compensation shall prepare and adopt such forms for use in workers' compensation cost containment as it may deem necessary and advisable. Whenever the Office of Workers' Compensation's forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to the office.

B. The following forms have been adopted by the Office of Workers' Compensation Administration for use in implementation of the workers' compensation cost containment act:

Forms:

- LDOL-WC-Form No. 1021 Application for attendance at cost containment meeting
- LDOL-WC-Form No. 1022 Certificate of Attendance
- LDOL-WC-Form No. 1023 Application for Implementation of Occupational Safety and Health Program
- LDOL-WC-Form No. 1024 Certificate of Satisfactory Implementation of Occupation Safety and Health Program

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.
HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1105. Cost Containment Meeting

A number of statewide meetings shall be held between June and September of each year. A notice of all the meetings scheduled for that year shall be sent to all "eligible employers" as defined in La. R.S. 23:1176. Eligible employers who have not qualified for a reduction in the prior three years shall be sent by certified mail return receipt requested at least 30 days prior to the first scheduled meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1107. Application for Attendance at Cost Containment Meeting

A verified application Form LDOL-WC-Form No. 1021 together with proof that the attendee is a person in a position of authority within the company must be received 15 days prior to the scheduled meeting to guarantee consideration. Proof may include but shall not be limited to a verified job description, annual report to Secretary of State, copy of the preprinted tax form or act of partnership. Notice shall be given five days prior to the meeting if the office finds that the designated attendee is not a person in a position of authority within the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1109. Proof of Attendance; Certificate

In order to obtain a certificate of attendance, LDOL-WC-Form No. 1022 at a cost containment meeting, the attendee must have qualified as a designated representative as defined in R.S. 23:1176(1). At the meeting the designated representative shall submit pictured identification and sign the roles of attendance. The certificate shall thereafter be mailed to those eligible employers who have not qualified for a reduction in the prior three years. Any application received within 15 days prior to a meeting may not be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1111. Failure to Attend; Fines

After the last scheduled meeting of a year the director upon verification of notice and failure to attend shall send a notice of fine to all eligible employers as provided in R.S. 23:1178(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1113. Application for Participation in the Occupational Safety and Health Program

Only "eligible employers" who have certificate of attendance Form LDOL-WC-Form No.1022 issued within the last four years may apply for participation in the Occupational Safety and Health program under the Cost Containment Act by submitting LDOL-WC-Form No.1023 to the Occupational Safety and Health Section of Office of Workers' Compensation Administration. In scheduling surveys the OWCA will attempt

to schedule on the basis of the date the application is received in the office but shall also consider the OSHA High Hazard list and geographical location for maximizing scheduling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1115. Report to the Employer

Upon completion of surveys of all existing sites of a business, OSHA shall issue to the employer an official inspection report with identified hazards and safety program deficiencies and a timetable for taking corrective actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1117. Standard for Satisfactory Implementation

The standards used by the Office of Workers' Compensation Administration, OSHA Section, in determining a participant's satisfactory implementation of the Occupational Safety and Health Program shall be those provided in Title 29 of the Code of Federal Regulations, Sections 1910, 1915, 1918 and 1926 and any regulations of ANSI, NEC and NFPA applicable to the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1119. Inspections

When the official inspection report contains any recommendation for correction of hazards or program deficiencies the employer must submit proof of compliance. The OSHA section may require a follow up inspection to verify satisfactory implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

§1121. Certificate of Satisfactory Implementation

A certificate of satisfactory implementation LDOL-WC-Form No. 1024 shall be issued only to those eligible employers who have not qualified for a reduction pursuant to R.S. 23:1179(C) in the prior three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR:

Comments should be forwarded to Alvin J. Walsh, Director, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be accepted through the close of business at 4:15 p.m. on May 4, 1993.

Alvin J. Walsh
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: INSURANCE COST CONTAINMENT**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will require only an extension of current duties by office personnel. Marginal implementation costs are estimated at \$1,600 for printing of new forms and \$1,000 for travel expenses for a contract consultant, for a total of \$2,600.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be minimal effect on revenue collection in a one dollar fee for copies of the revised rules, for total estimated amount of \$1,500. Penalties assessments can not be estimated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be minimal costs to approximately 1,500 high risk employers required to attend a meeting which will be offset by premium reductions for workers' compensation coverage and overall reduction of workplace accidents and injuries. Insurance carriers writing high risk coverage, i.e., Louisiana Workers' Compensation Corporation will experience a reduction in previous rates which should also be offset by reduced claims.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

One impact would be that employers who attend would know how to effectively implement a Safety and Health Program which could result in a competitive edge.

Additionally, this legislation addresses "the workers' compensation crisis" and should impact competition and employment by reducing insurance premiums and the availability of workers' compensation coverage in the state.

Alvin J. Walsh
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

**Reimbursement Schedule Dental Care Services
(LAC 40:I.Chapter 53)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 23:1034.2 of Act 938 of the 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the Department of Labor, Office of Workers' Compensation, hereby gives notice of its intent to adopt and promulgate rules to implement the dental care reimbursement schedule.

The Dental Care Reimbursement Schedule is part of the Medical Reimbursement Schedules. The purpose of the Medical Reimbursement Schedules is to coordinate an efficient program to administer medical services to injured workers. The medical reimbursement schedules are applicable to any person or corporation who renders such care, services

or treatment or provides such drugs or supplies to all employees covered by Chapter 10 of Title 23 of the Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

The medical reimbursement schedules establish a basis for billing and payment of medical services provided to all injured employees.

A copy of this proposed rule is printed in full in the Emergency Rule Section of this issue of the *Louisiana Register*.

Comments should be forwarded to Alvin J. Walsh, Director of the Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be received through the close of business on May 20, 1993.

Alvin J. Walsh
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: DENTAL CARE SERVICES
REIMBURSEMENT SCHEDULE**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs to the Office of Workers' Compensation to produce the dental reimbursement schedule will be \$15,500. The costs include \$11,500 for the contract to Blue Cross to prepare the schedule and \$4,000 for printing cost (200 copies at \$20 per copy).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A fee of \$20 will be charged to dental care providers for each copy of the schedule. The amount of revenue that the Office of Workers' Compensation will collect is undeterminable since the number of dental care providers that will request a copy is unknown.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The dental reimbursement schedule with billing and maintenance instructions will provide guidelines and procedures for appropriate reimbursement amounts to the dental providers for a proposed or already performed service provided to a person receiving benefits legally due because of a job related injury or illness. The precise economic benefit is not ascertainable. It is estimated that there could be approximately a 15%-25% reduction in total dental payments in workers' compensation cases. Employers through their insurance carriers will realize a considerable reduction in medical payments for the medical services provided as a result of an on the job injury or illness.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment. The dental reimbursement schedule is designed to provide maximum allowable reimbursement to dental providers for services rendered to injured employees. The impact is not directly felt on employment or competition.

Alvin J. Walsh
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Anhydrous Ammonia (LAC 55:IX.Chapter 15)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce rules and regulations, notice is hereby given that the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission proposes to amend its rules and regulations. The proposed rule is necessary to ensure the safe handling of anhydrous ammonia and to provide updated regulations in accordance with the law as amended in 1990.

The text of this proposed rule may be viewed in its entirety in the emergency rule section of the March, 1993 issue of the *Louisiana Register*, pages 295 through 301.

The commission will hold a public hearing May 27, 1993, 265 South Foster Drive, 8:30 a.m. Written comments will be accepted through May 21, 1993 and should be sent to G. L. "Mike" Manuel, Jr. at Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing.

G. L. "Mike" Manuel, Jr.
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: ANHYDROUS AMMONIA

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs to state or local governmental units. During the first fiscal year or enactment the manpower presently on staff will provide the implementation of the program. In subsequent years, as the demand increases for inspections and certification of systems, we anticipate a manpower increase to meet the demand.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We anticipate receiving \$32,750 revenue collections (self-generated) for state government from the permit fees, application filing fees and cards of competency which will be required for these dealers. This figure is based on the anticipation of 90 applications and 200 cards of competency in the first year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The benefit will be the assurance to the public that the anhydrous ammonia systems are safe and according to rules and law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Proposed rule changes will have no impact on the competition in the private sector.

Linda M. Dawkins
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Classes of Permits (LAC 55:IX.113)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce rules and regulations, notice is hereby given that the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission proposes to amend its rules and regulations. The proposed rule waives the appearance of Class VI-X permit applicants at commission meetings.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Editor's Note: This Chapter applies to all classes of permits.

Subchapter A. New Dealers

§113. Classes of Permits

A.1. - 6. ...

7. Class VI-X. Holders of these permits may engage in the exchange of approved L.P. Gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

a. Must file formal application with the Liquefied Petroleum Gas Commission 30 days prior to the date of the commission meeting at which time the application is to be approved. Presence of the applicant at the commission meeting is waived when the application is heard. Application forms will be furnished by the commission upon request.

b. - h. ...

i. Section 105 of the rules and regulations is hereby declared non-applicable to the Class VI-X permit.

* * *

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 3:315 (July 1977), LR 7:633 (December 1981), LR 8:53 (January 1982), LR 11:557 (May 1985), LR 15:855 (October 1989), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:

The commission will hold a public hearing May 27, 1993, 265 South Foster Drive, 8:30 a.m. Written comments will be accepted through May 21, 1993 and should be sent to G. L.

"Mike" Manuel, Jr. at Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing.

G. L. "Mike" Manuel, Jr.
Director

submitted no later than May 29, 1993, at 4:30 p.m. to Ray Holloway, Assistant Secretary, Office of the Alcoholic Beverage Control, Box 66404, Baton Rouge, LA, 70896.

Raymond Holloway
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: CLASSES OF PERMITS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to state or local governmental units. This is due to the fact that this rule change only waives the requirement of the Class VI-X applicant to appear at the commission meeting.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collection since this rule change does not change the fee requirements on the Class VI-X applicant. The same fees will apply with no increase or decrease.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The benefit will be to the applicant applying for the Class VI-X permit due to the fact that they will not have to appear at the commission meeting which costs them time and money to appear in Baton Rouge from statewide locations.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Proposed rule changes will have no impact on the competition in the private sector.

Linda M. Dawkins
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Alcoholic Beverage Control**

Caterer's Permit (LAC 55:VII.325)

Under the authority of the Louisiana Alcoholic Beverage Code, particularly R.S. 26:793 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the commissioner gives notice that rulemaking procedures have been initiated to promulgate regulation 325, LAC 55:VII, Chapter 3. This proposed rule is to establish special designations on Regular Class A permits for persons who wish to service special events as caterers and serve at locations other than their regularly licensed premises.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule Section of this issue of the *Louisiana Register*.

All interested parties are invited to submit written comments on the proposed regulation. Such comments should be

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Caterer's Permit**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no additional implementation costs to state or local governmental units because the changes represented can be handled by existing staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections of state or local governmental units should increase as more appropriate monitoring of sales would occur by the posting of the permit on individual events.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Estimated costs should decrease and economic benefits should increase because the purchasing of a special event permit of \$100 for each event would cost only \$200 for ten events.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Raymond Holloway
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Police
Division of Charitable Gaming Control**

Counting Pull Tabs (LAC 42:I.1774)

The Department of Public Safety, Office of State Police in accordance with R.S. 36:408, R.S. 40:1485.4, R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to add LAC 42:I.1774 relative to the counting of pull-tabs to read as follows:

Title 42

LOUISIANA GAMING

Part I. Charitable Gaming

Chapter 17. General Requirements

§1774. Counting of Pull Tabs

A. Any licensed distributor including his authorized agents or employees may open, count, and repackage pull tab deals procured from licensed manufacturers for distribution to licensed charitable organizations. No person employed by a licensed distributor to open, count, or repackage pull tabs may purchase pull tabs.

B. Any distributor which opens a box of pull tabs shall take necessary precautions to prevent loss, theft, damage, opening or otherwise impairing the integrity of the pull tabs.

C. Any distributor which counts pull tabs shall take necessary precautions to insure accurate counts. Open deals of pull tabs shall be maintained in a separate secure location accessible only by authorized employees.

D. No deal of pull tabs shall be distributed if its actual count varies from its manufacturer's declared count by 0.1 percent or more. Any distributor which sells a deal of pull tabs containing an actual count different from the manufacturer's declared count shall advise the purchaser of such discrepancy at the time of the sale. The distributor shall maintain for three years a log containing the following information relative to every deal sold containing any count discrepancy:

1. manufacturer;
2. form number;
3. serial number;
4. manufacturer's declared count;
5. actual count;
6. purchaser's name and license number.

E. No deal of pull tabs shall be distributed if one or more winning pull tabs from that deal have been destroyed, substantially damaged, or opened. No opened pull tab shall be resealed by the distributor.

F. All points of entry on any box of pull tabs opened by a distributor shall be resealed with an adhesive sticker bearing the distributor's name.

G. Any distributor which counts pull tabs shall do such counting only at the principal address listed on the distributor's license application filed with the division or at a location approved in advance by the division in writing. No distributor shall count pull tabs on premises where charitable gaming is conducted.

H. Every deal of pull tabs opened and counted by a distributor shall be repackaged in the original packaging and shall include the original manufacturer's packing slip and a packing slip from the distributor containing the following information:

1. the name of the distributor;
2. the date the box was repackaged;
3. the name or identification of the person or persons repackaging the box;
4. the actual total number of pull tabs in the box; and
5. the number of pull tabs in each banded or separated group, including those pull tabs not equalling the number contained in each such group.

I. Any distributor which opens a box of pull tabs that must be returned to the manufacturer or cannot be sold due to a defect or damage caused by the manufacturer, distributor or shipping company shall maintain for three years a log containing the following information:

1. manufacturer;
2. form number;
3. serial number;
4. description of defect or damage including identity of the responsible person or persons; and
5. disposition of the deal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1485.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 19:

Interested persons may submit written comments on the proposed rule to: Joseph T. Booth, Director, Division of Charitable Gaming Control, Office of State Police, Louisiana Department of Public Safety and Corrections, Box 66614, Baton Rouge, Louisiana, 70896, telephone (504) 925-1835.

Paul W. Fontenot
Superintendent

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: COUNTING PULL TABS**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The total cost incurred by the state for implementation of the proposed rule is \$16.38. It will have no impact on local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule is revenue neutral.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Some distributors which choose to engage in the activity allowed by the proposed rule may elect to hire additional personnel. Some distributors may increase sales, because a more desirable product will be available for sale.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

Monopolistic practices will be curbed, and competition among the distributors will increase. Some distributors may elect to hire additional personnel.

Paul W. Fontenot
Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Police
Riverboat Gaming Division**

Riverboat Gaming License, Permit, Compliance, Inspections and Investigations (LAC 42:XIII.Chapters 17-23)

The Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Division, in accordance with R.S. 49:950 et seq. and R.S. 4:501 et seq., gives notice of its intent to adopt rules and regulations regarding the licensing, permitting, compliance, inspections and investigations of Riverboat Gaming Activities, LAC 42:XIII.Chapters 17-23.

The text of these proposed rules can be viewed in their entirety in the emergency rule section of this April 20, 1993 issue of the *Louisiana Register*.

A public hearing on these proposed rules will be held on May 26, 1993, commencing at 1 p.m. at the State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA.

Interested persons may submit written comments to the following address: Sergeant Marcal Poullard, Office of the State Police, Riverboat Gaming Division, Box 66614, Baton Rouge, LA 70896. He is the person responsible for responding to inquiries regarding these proposed rules and regulations. Written comments will be accepted through the close of business at 4:30 p.m. on May 20, 1993.

Colonel Paul W. Fontenot
Deputy Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: RIVERBOAT GAMING REGULATIONS**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
Implementation costs of \$793,317 for fiscal year 92/93 cover a total of 22 positions and associated costs which are required to license and regulate the riverboat gaming industry. Expected costs for fiscal year 93/94 are estimated at \$1,671,667. The large expenditure in acquisitions proposed for the 93/94 budget year includes \$310,000 for purchase of vehicles for commissioned personnel. Additional acquisitions cover office equipment and necessary investigatory equipment for commissioned personnel.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The unit is expected to receive application and licensing fees estimated at \$793,314 for fiscal year 92/93 and \$1,671,667 for fiscal year 93/94.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**
No cost except expenditures associated with the background investigation of applicants and those costs will be borne by the applicants. Economic benefit can be expected for non-governmental groups or persons as a result of employment or free enterprise in the riverboat gaming industry in their respective areas.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
Increased revenues will bring employment for area businesses and enterprises. Competition among licensees, permittee's and associated service entities will increase as this industry grows.

Linda M. Dawkins
Undersecretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Revenue and Taxation
Sales Tax Division**

Leases and Rentals (LAC 61:I.4303)

Under the Authority of R.S. 47:302 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary hereby gives notice that rulemaking procedures have been initiated to amend the sales and use tax regulations, LAC 61:I.4303.

The current language contained within LAC 61:I.4303 does not effectively describe the sales tax collection requirements of a dealer who rents or leases tangible personal property which moves in and out of Louisiana's taxing jurisdiction during the term of its lease or rental. This amendment, which reflects the holdings in a number of recent judicial decisions concerning the lease and rental of property occurring both within and without Louisiana, will provide a basis and method by which the tax shall be collected, while giving due consideration to the rights of other states to collect any sales taxes which are properly due them on such transactions.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue and Taxation**

Chapter 43. Sales and Use Tax

§4303. Imposition of Tax

* * *

B. R.S. 47:302(B) imposes a tax upon the lease or rental of tangible personal property within this state at the rate of two percent and R.S. 47:321(B) and R.S. 47:331(B) impose an additional two percent tax on the lease or rental of tangible personal property within Louisiana. *Lease or rental* is defined by LAC 61:I.4301.7 as the granting of possession or use of tangible personal property by the owner thereof to another person for a consideration, without the transfer of title to the property. Since the statute levies the tax upon lease or rental transactions "within this state", the site of the transaction and the location of the leased or rented property are of concern in determining the tax to be levied. And since tangible personal property is mobile by its nature, it follows that lease or rental transactions, which may be several months or years in duration, may occur both within and without the state of Louisiana, and thus bear the tax consequences of more than one state. With respect to the location of lease or rental transactions, the following will apply:

1. The Louisiana state sales/rental tax will be due on the full amount of lease and rental payments where possession of the leased or rented property is transferred from the lessor to the lessee or renter in Louisiana, including Louisiana-destination shipments originating from outside of the state. Lease/rental property will not be considered as having been transferred from the lessor to the lessee or renter in Louisiana in those cases where the Louisiana lessor delivers the lease-rental property from Louisiana to his customer outside the state of Louisiana, either in his own vehicles or by an authorized public carrier.

2. In cases where the possession of leased or rented property is transferred from the lessor to the lessee or renter outside of the state of Louisiana, but the property is used in Louisiana during the lease/rental period, the Louisiana state sales/rental tax will be due on the entire amount of rental proceeds for the payment period when the property was used in Louisiana. In cases where all or some portion of lease/rental proceeds are determined under the laws of another state to be subject to sales/rental taxation in that state, the portion of the lease/rental proceeds subject to and actually taxed by the other state can be deducted from the total proceeds before applying the applicable Louisiana tax rate to the remainder. No credit will be allowed against the Louisiana sales/rental tax based on taxes paid to a state from where a lessor originated an interstate shipment of lease/rental property to a Louisiana customer. In the case of property rented on a monthly lease basis, or for a longer period of time, the total tax will be four percent of the amount paid monthly, or on whatever other agreed payment schedule is provided by the lease. Rental transactions are to be reported by the dealer on a "cash receipts" basis, as provided by R.S. 47:306(A)(2). The gross proceeds derived from the lease or rental of all properties, whether or not this is the established business of the taxpayer or is merely incidental thereto, are subject to the lease or rental tax. Operating expenses and maintenance costs for keeping the property in repair cannot be deducted from gross proceeds in arriving at the taxable base.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:302.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended LR 19:

This proposed amendment is scheduled to become effective July 20, 1993, or upon publication in the *Louisiana Register*.

A public hearing will be held at 9 a.m., Wednesday, June 2, 1993, in the Department of Revenue and Taxation Building, Secretary's Conference Room, Second Floor, 330 North Ardenwood, Baton Rouge, LA. Interested persons are invited to attend and/or to submit oral and/or written comments on the proposed amendment.

Interested persons may submit their written comments to Raymond Tangney, Director, Sales Tax Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821.

Ralph Slaughter, C.P.A.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: IMPOSITION OF TAX**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional costs or savings in implementing this amendment to LAC 61:I.4303.B. The amended rule will be incorporated into the next printed edition of the department's publication which contains the sales and use tax statutes and regulation whenever current supplies of the publication are exhausted and a reorder is necessary. Neither will this rule

amendment create any additional costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this amendment will increase compliance with the sales tax law concerning the lease and rental of tangible personal property which crosses state lines during the term of the lease or rental. By prescribing the criteria and method for levying the sales tax on lease and rental transactions, dealers engaged in such interstate movement of leased property will be provided the correct basis upon which to calculate and collect the tax. And by giving consideration to the taxes which are properly levied and paid to other states, dealers will be more apt to collect and pay the tax since an accurate and equitable accounting of the actual location of use of the property is the basis for the levy. There is currently much confusion among rental dealers as to the proper rental tax due on interstate rental transactions, and as a result, dealers often collect and remit no tax at all rather than risk collecting what might seem to be an unconstitutional tax on interstate commerce. This amendment can be expected to increase sales tax revenues, although it is not known by what amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule amendment will directly affect lessors and lessees of tangible personal property (other than railroad companies) by providing that no inter/intrastate rental transaction which occurs within and without Louisiana's boundary go untaxed by the respective states in which the rental occurs, merely because there is no equitable and logical scheme of taxation available. Insofar as the amendment would require the taxation of rentals which have heretofore gone untaxed because of a misconstruction of the interstate commerce clause, an additional tax burden would fall upon those untaxed rentals. On the other hand, it will place intrastate lessors on a level playing field with interstate lessors, and benefit them by removing the unfair competitive advantage which interstate lessors have.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on employment. However, as mentioned in Item III., there will be an equalizing effect upon competition among lessors located in Louisiana who compete with those located in other states, by requiring Louisiana tax collection on rental proceeds not taxed by other states. Lessors who lease property in Louisiana clearly fall within the definition of "dealer" by virtue of having income-earning property in Louisiana, even though they maintain no physical location and have no employees in this state. This amendment will provide a basis for collecting their own state's and Louisiana's sales tax on rental transactions in a fair and equitable manner.

Raymond E. Tangney
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Family Support

Food Stamps-Deductions (LAC 67:III.1983)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, the Food Stamp Program.

The Family Support Act of 1988 directed that child care payments to participants in the Job Opportunities and Basic Skills (JOBS) Program, known as Project Independence in Louisiana, and the Transitional Child Care Assistance Program (TCC) be excluded as food stamp income.

Pursuant to amendment by the Hunger Prevention Act of 1988, 7 USC 2014(d) provides that JOBS and TCC Title IV-A payments or reimbursements for child care expenses made under an employment, education or training program initiated after September 19, 1988 are reimbursements.

7 USC 2014(e) provides for a dependent deduction, except for payments made on behalf of the household by a third party.

Food Stamp Policy Memorandum 3-90-26, interpreting the impact of the Family Support Act of 1988, directed that a food stamp household could receive a deduction for dependent care costs even though part or all of the cost was reimbursed by JOBS and TCC payments.

Pursuant to *Federal Register*, Volume 57, Number 244, pages 60074-60083, this policy has been clarified and 7 CFR 273.10 amended with a state implementation date of March 1, 1993. The federal regulation now provides that a dependent care deduction is not allowable for the amount of child care expenses reimbursed or paid for by JOBS or TCC.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

* * *

B. A child care expense that is paid for or reimbursed by the Job Opportunities and Basic Skills Training Program or the Transitional Child Care Program shall not be deductible, except for that expense which exceeds the payment or reimbursement.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, 7 CFR 273.9 and 273.10 (d)(1)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989). Amended by the Department of Social Services, Office of Family Support, LR 19:414 (March 1993), LR 19:

Interested persons may submit written comments within 30 days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on May 26, 1993, in the second floor auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: FOOD STAMPS-DEDUCTIONS

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost to state government to implement the proposed action is the cost of printing a two page policy interpretation memorandum and a two page manual revision which inform staff of the policy change. The total cost for printing is \$40.60. There will be savings to state government but an amount cannot be estimated. The rule will have no impact on any local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs or benefits to any non-governmental groups.

The proposal will cost some food stamp recipients in that they will lose benefits; the amount cannot be estimated. (It can only be computed by using individual case records as the policy change is put into effect.)

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposal will have no impact on competition and employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services Office of Rehabilitation Services

Sign Language Interpreter (LAC 67:VII.1301)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services, Commission for the Deaf is adopting revisions to the rules affecting the certification of sign language interpreters.

The purpose of this notice of intent, is to provide revisions to the rules governing the procedures/standards used in the evaluation and certification of sign language interpreters and list the qualifications of individuals who are eligible for certification at various skill levels.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 13. State Sign Language Interpreter Certification Standards

§1301. Certification Standards

A. Certification Statement. All individuals who use the title "Sign Language Interpreter" must be certified by and registered with the Louisiana Commission for the Deaf.

1. Recognition of situational specialties will require action of the appropriate subcommittees of the Interpreter Certification Board.

a. Qualifications for Certification

- i. be at least 18 years of age; and
- ii. possess a high school diploma/GED; and
- iii. submit completed application forms and required documentation; and
- iv. pass appropriate examination(s); and
- v. abide by state laws, rules and regulations; and
- vi. abide by the Registry of Interpreters for the Deaf, Inc. (RID) Code of Ethics; and

b. in addition, applicants shall agree to:

- i. sign a release of information form allowing LCD to gain examination results from examining agency(ies); and
- ii. pay membership and related application fees to contracted examining agency(ies).

c. Application. An individual interested in certification must contact the Louisiana Commission for the Deaf (LCD).

B. Examinations. The State Certification Program includes the following:

1. Screening. To begin the certification process, the candidate must rate an intermediate level or higher of Sign Language skills, as measured by the Sign Language Proficiency Interview or Sign Communication Proficiency Interview.

2. Written/Verbal/Performance Components. Upon successful completion of screening, the candidate will be eligible for the written examination(s), which will assess knowledge of the general field of deafness including deaf culture; the profession of Sign Language interpreting and application of the RID Code of Ethics.

a. Upon successful completion of the written examination(s), the candidate will be eligible for the verbal and/or performance examination(s).

b. The verbal examination(s) may include but not be limited to assessing knowledge of the general field of deafness including deaf culture, the profession of Sign Language interpreting and application of the RID Code of Ethics.

c. The performance examination will assess the candidate's ability to render the following:

- i. American Sign Language into spoken English and spoken English into American Sign Language; and
- ii. Sign English into spoken English and spoken English into Sign English.

d. Factors examined include, but are not limited to, clarity of signs and fingerspelling; appropriateness of English structure and register; inflection of signs and voice to depict affect and conceptual accuracy.

3. Examination Instrument. The Interpreter Certification Board will determine the examination(s) to be administered as approved by the Louisiana Commission for the Deaf.

4. Examination Dates. Administration of examination(s) will be scheduled by the Interpreter Certification Board.

5. Notification of Examination(s) Results. Individual candidates will be notified of results. Results of any part of the examination(s) will be maintained in confidential files, however, successful completion will be a matter of public record.

6. Re-application. Persons who do not successfully pass any section(s) of the examination may apply for re-examination of said section(s) after a waiting period as outlined in the procedures manual of the Interpreter Certification Board.

7. No Shows. Failure to appear at an examination site at the appropriate time, for other than just cause as determined by ICB, will result in being placed at the bottom of the waiting list for the next available date.

C. Certificates

1. Certificate Criteria. The candidate:

- a. must successfully complete the written examination(s); and
- b. must successfully complete the verbal and/or performance examination(s);
- c. must successfully complete a standardized minimum score/rating as determined by the provider of the examination instrument(s).
- d. will be awarded:
 - i. Level V
 - ii. Level IV
 - iii. Level III
 - iv. Level II
 - v. Level I
- e. A Level V certificate indicates the candidate possesses master level skill in both interpreting and transliterating.

2. Certificate Duration/Maintenance. Certificates shall be continuous as long as the individual interpreter meets certificate maintenance requirements as outlined in the procedures manual of the Interpreter Certification Board. Certificate maintenance requirements shall include but not be limited to professional growth and development, and field work.

a. Certificates shall be terminated when maintenance requirements are not met, but may be restored as outlined in the procedure manual of the Interpreter Certification Board.

3. Reciprocity. Reciprocity of Sign Language interpreting certificates is outlined in the procedure manual of the Interpreter Certification Board.

4. Appeals. Individuals who disagree with the examination procedure and/or decisions of the Interpreter Certification Board have the right of appeal as outlined in the procedure manual of the Interpreter Certification Board.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 17:389 (April 1991), amended LR 18:968 (September 1992), LR 19:

Public hearings beginning at 10 a.m. will be held on May 26, 27, and 28, 1993, in Shreveport, Alexandria, and New Orleans, respectively. The hearing locations are as follows: Shreveport at 1525 Fairfield Avenue, LRS Regional Office; Alexandria at 900 Murray Street, LRS Regional Office; New Orleans at 2026 St. Charles Avenue, LRS Regional Office.

All interested persons will be afforded an opportunity to express issues, views, or concerns at the hearings. Written commentary will also be accepted by Louisiana Rehabilitation Services prior to the hearings, during the hearings and up through June 11, 1993, after the hearings.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: SIGN LANGUAGE INTERPRETER
CERTIFICATION STANDARDS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no implementation cost.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated increase or decrease in revenue.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no anticipated impact.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services**

**Sign Language Interpreters' Grandfather Provision
(LAC 67:VII.1303)**

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services, Commission for the Deaf is proposing revisions to the rules effecting the certification of sign language interpreters.

The purpose of this proposed rule is to provide revisions to the rules governing the procedures/standards used in the evaluation and certification of sign language interpreters and

list the qualifications of individuals who are eligible for certification at various skill levels.

The proposed rule was published as an emergency rule in the March 1993 register, pages 305-306.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

**Chapter 13. State Sign Language Interpreter
Certification Standards**

§1303. Grandfathering

Upon this rule becoming effective, for a period of three months candidates may receive a certificate according to the following:

1. Level V. Individuals must provide documentation and proof of Louisiana Commission for the Deaf Interim Certificate A or B, or current or past Registry of Interpreters for the Deaf certification of:

a. Specialist Certificate: Legal SC:L (formerly LSC),
or

b. Specialist Certificate: Performing Arts (SC:PA), or
c. Master Comprehensive Skills Certificate (MCSC),
or

d. Comprehensive Skills Certificate (CSC), or
Reverse Skills Certificate (RSC), or

e. Certificate of Interpretation (CI) and Certificate of Transliteration (CT).

2. Level IV. Individuals must provide documentation and proof of Louisiana Commission for the Deaf Interim Certificate C, or current or past Registry of Interpreters for the Deaf certification of:

a. Certificate of Interpreting (CI), or Certificate of Transliterating (CT);

b. Expressive Interpreting Certificate (EIC); and

c. Expressive Translating Certificate (ETC); or

d. Interpreting Certificate (IC); and

e. Transliterating Certificate (TC).

3. Level III. Individuals must provide documentation of a Louisiana Commission for the Deaf Interim Certificate D or past Registry of Interpreters for the Deaf certification of:

a. Expressive Interpreting Certificate (EIC); or

b. Expressive Translating Certificate (ETC); or

c. Interpreting Certificate (IC); or

d. Transliterating Certificate (TC).

4. Level II. Individuals must provide documentation and proof of four or more Louisiana Registry of Interpreters for the Deaf Situational Specialties* and an intermediate or higher rating as measured by the Sign Language Proficiency Interview, or a Louisiana Commission for the Deaf Interim Certificate E.

5. Level I. Individuals must provide documentation and proof of one to three Louisiana Registry of Interpreters for the Deaf Situational Specialties* and an intermediate or higher rating as measured by the Sign Language Proficiency Interview.

* Religious interpreting as a Situational Specialty will not be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2351-2354 and R.S. 46:2361-2374.

HISTORICAL NOTE: Promulgated by the Department of Social

Services, Rehabilitation Services, Commission for the Deaf, LR 17:389 (April 1991), amended LR 18:968 (September 1992), amended LR 19:305 (March 1993), LR 19:

Public hearings beginning at 10 a.m. will be held on May 26, 27, and 28, 1993, in Shreveport, Alexandria, and New Orleans respectively. The hearing locations are as follows: Shreveport at 1525 Fairfield Avenue, LRS Regional Office; Alexandria at 900 Murray Street, LRS Regional Office; New Orleans at 2026 St. Charles Avenue, LRS Regional Office. All interested persons will be afforded an opportunity to express issues, views, or concerns at the hearings. Written commentary will also be accepted by Louisiana Rehabilitation Services prior to the hearings, during the hearings and up through June 11, 1993, after the hearings.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: SIGN LANGUAGE INTERPRETERS'
GRANDFATHER PROVISION**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no implementation cost.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated increase or decrease in revenue.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There is no anticipated impact.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Treasury
Louisiana Housing Finance Agency**

**Home Investment Partnership Program
(LAC 16:II.Chapter 1)**

The board of the Louisiana Housing Finance Agency gives notice of its intent to adopt the following Home Investment Partnership Program rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and under authority of the Louisiana Housing Finance Act, R.S. 40:600.1, et seq. The agency has adopted the form of HOME Investment Partnership Program Application Package in connection with the administration and allocation of HOME Program funds. The following rule and policies govern the

allocation and award of HOME Program funds made available pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1990.

**Title 16
COMMUNITY AFFAIRS**

**Part II. Louisiana Housing Finance Agency
Chapter 1. Home Investment Partnership Program**

§101. Home Program Application Fees

A. Rehabilitation

Project Size	Application Fee
1 to 4 units	\$ 200
5 to 16 units	\$ 500
17 to 32 units	\$ 1,000
33 to 60 units	\$ 1,500
61 to 100 units	\$ 2,000
Over 100 units	\$ 200

B. Home Buyer Assistance

Single family dwellings (1-4 units)	\$ 200
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AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19:

§103. Aggregate Pools

Name	% of Available Funds
A. Allocation to Jurisdictions to Become Eligible to Administer HOME Program Directly	4%
B. Administrative Expenses	5%
C. CHDO Operating Support	5%
D. CHDO General Fund	15%
E. Special Needs Set Aside	24%
F. Rehabilitation Programs	31%
G. Home Buyer Assistance	16%

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19:

§105. Selection Criteria to Award Home Funds to Rehabilitation Projects

	Points
A. Project Located In Comprehensive and Concentrated Neighborhood Revitalization Area	25
B. Project to be Owned, Developed or Sponsored by Community Housing Development Organization (CHDO)	25
C. Leverage Ratio for Each HOME Dollar	
Minimum Other Dollars	
\$1	5
\$2	10
\$3	15

\$4	20
\$5	25
D. Project to Rehabilitate Substandard Housing Units to Minimum Quality Standards with Total Funds Per Unit Not Exceeding:	
\$ 2,500	25
\$ 5,000	20
\$ 7,500	15
\$10,000	10
\$15,000	7
\$20,000	5
\$25,000	2
E. Project to Rehabilitate Housing Units of Historic or Architectural Significance	25
F. Project to Rehabilitate Housing Units Serving Special Needs Groups	50
G. Project Promotes Cooperative Housing	25
H. Project to Expend HOME Funds by June 30, 1993	50
I. Project to Establish Lease-Purchase Turnkey Program	25
AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.	
HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19:	
§107. Selection Criteria to Award Home Funds to Local Governmental Units (Sub-Recipients)	
	Points
A. Jurisdiction Proposes Comprehensive and Concentrated Neighborhood Revitalization Area	25
B. Jurisdiction Proposes to Use Community Housing Development Organization ("CHDOs") to Own, Sponsor or Develop Units to be Rehabilitated	25
C. Leverage Ratio for Each HOME Dollar	
Minimum Other Dollars	
\$1	5
\$2	10
\$3	15
\$4	20
\$5	25
D. Jurisdiction Proposes to Rehabilitate Substandard Housing Units to Minimum Quality Standards with Total Funds Per Unit Not Exceeding:	
\$ 2,500	25
\$ 5,000	20
\$ 7,500	15
\$10,000	10
\$15,000	7
\$20,000	5
\$25,000	2
E. Jurisdiction Rehabilitate to HQS Following Percentage of Substandard Units in Rehabilitation Area:	
90 - 100 %	50
80 - 90 %	40
70 - 80 %	30
60 - 70 %	20
50 - 60 %	10
less than 50%	0

F. Jurisdiction Proposes to Rehabilitate Housing Units of Historic or Architectural Significance	25
G. Jurisdiction Proposes to Rehabilitate Housing Units Serving Special Needs Groups	50
H. Jurisdiction Proposes to Promote Cooperative Housing	25
I. Jurisdiction Proposes to Commit HOME Funds by June 30, 1993	50
J. Jurisdiction Proposes to Establish Lease-Purchase Turnkey Program	25
AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.	
HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 19:	
All interested persons are invited to submit written comments on the proposed rule. Such comments should be submitted no later than May 20, 1993, at 4 p.m., to V. Jean Butler, President, Louisiana Housing Finance Agency, 200 Lafayette Street, Suite 300, Baton Rouge, LA 70801.	

V. Jean Butler
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: HOME INVESTMENT PARTNERSHIP
PROGRAM**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs are uncertain, but all such costs will be covered from a portion of the HOME Funds.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is estimated that the proposed rule will effect revenue collections by increasing the number of transactions which generate sales tax revenues. Rehabilitation of existing rental developments will increase their value and thereby generate additional property tax revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is estimated that the proposed rule will result in an economic benefit to directly affected persons or non-governmental groups by funding housing activities for which other federal or state resources are unavailable.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is estimated that the proposed rule will increase employment among governmental, for profit and not-for-profit housing providers who participate in the HOME Program.

V. Jean Butler
President

John R. Romback
Legislative Fiscal Officer

ADMINISTRATIVE CODE UPDATE

CUMULATIVE ADMINISTRATIVE CODE UPDATE
January, 1993 through March, 1993

14SW, LAC 33	VII.Chapters 1-11	Amended	Feb 187
16, LAC 70	I.505	Adopted	Mar 352
	III.Chapter 3	Adopted	Mar 352
	III.501	Amended	Mar 359
18, LAC 28	I.313	Amended	Feb 173
	I.917	Amended	Feb 171
	I.917	Amended	Feb 173
	III.1801	Adopted	Feb 174

Vol, Title	Part.Section	Effect	Location LR 19 Month Page
1, LAC 10	I.541,545	Adopted	Jan 35
	I.531,533,535	Adopted	Jan 35
	I.551-559	Adopted	Jan 37
3, LAC 46	XXXIII.411,420	Adopted	Feb 207
	XXXIII.Chapter 5	Amended	Feb 205
	XXXIII.701	Amended	Feb 206
	XXXIII.1206	Repromulgated	Feb 207
	XXXIII.Chapter 13	Adopted	Mar 333
	XLV.1942,4925	Adopted	Mar 340
	XLV.Chapters 21,51	Adopted	Mar 334
	XLVII.Chapter 3	Adopted	Mar 341
	LIV.Chapters 1,3	Amended	Feb 208
	LXI.Chapters 3-25	Amended	Jan 56
	LXI.Chapters 27-31	Amended	Jan 54
	LXIII.Chapter 8	Amended	Jan 46
	LXVII.2403	Amended	Feb 171
	LXXXV.Chapter 1	Amended	Mar 344
	LXXXV.Chapter 3	Amended	Mar 343
	LXXXV.1103	Amended	Feb 208
LXXXV.307	Amended	Jan 48	
4, LAC 4	III.Chapter 1	Amended	Mar 318
	VII.1239	Adopted	Mar 327
5, LAC 76	I.323,325	Adopted	Mar 359
	V.701	Amended	Feb 215
	VII.165	Adopted	Mar 361
	VII.307	Amended	Jan 58
	VII.329	Amended	Feb 216
7, LAC 25	IX.Chapters 1-7	Amended	Mar 308
LAC 37	III.703,1311	Amended	Feb 204
LAC 40	I.Chapter 21	Amended	Mar 350
9, LAC 48	I.Chapters 25-51	Adopted	Jan 53
	I.Chapters 25-51	Adopted	Feb 212
	VII.Chapter 7	Amended	Mar 346
10, LAC 61	V.Chapters 7-35	Amended	Feb 212
11, LAC 33	III.504	Adopted	Feb 183
	III.919	Repeal/Repromul	Feb 184
	III.2115	Amended	Mar 317
	III.2132	Repromulgated	Jan 45
	III.5115	Repromulgated	Jan 45
	III.5143	Amended	Jan 39
	III.6081	Repromulgated	Feb 186
	V.2242	Amended	Feb 186
13, LAC 33	V.Chapter 103	Amended	Mar 351

POTPOURRI

POTPOURRI

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

Plant Pest Quarantines Annual Listing

In accordance with LAC 7:XV.9507 and 9509, we are hereby publishing the annual quarantine.

1.0 Sweet Potato Weevil (*Cylas formicarius elegantulus* Sum)

A. In the United States: the states of Alabama, Florida, Georgia, Mississippi, Texas, and South Carolina; in Arkansas, Ouchita County.

B. In the state of Louisiana:

1. The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, West Feliciana.

2. That portion of Natchitoches Parish lying south and west of the Red River.

3. The following areas are non-sweet potato areas:

a. Those portions of Bienville Parish as follows:

The property of J.P. Fields in Section 23, Township 18 North, Range 7 West; and all properties within a one-mile radius thereof.

The property of R.P. Thomas in Section 23, Township 18 North, Range 7 West; and all properties within a one-mile radius thereof.

b. Those portions of Caldwell Parish as follows:

The property of Walter Speegle in Section 33, Township 13 North, Range 3 East; and all properties within a one-mile radius thereof.

c. Those portions of Caddo Parish as follows:

The property of Glenn Kinsey in Section 19, Township

18 North, Range 13 West; and all properties within a one-mile radius thereof.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

ARIZONA

1. Generally infested area: the entire state.

ARKANSAS

1. Generally infested area: None
2. Suppressive area: The entire counties of: Clay, Craighead, Crittenden, Cross, Greene, Mississippi, Monroe, Poinsett, and St. Francis.

CALIFORNIA

1. Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, San Diego.
2. Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, Tulare.

LOUISIANA

1. Generally infested area: None
2. Suppressive area: That portion of Concordia Parish as follows:

That portion of the parish bounded by a line beginning at the intersection of the Concordia - Tensas parish line and the Louisiana - Mississippi state line; then west along the Concordia - Tensas parish line to a point 0.3 miles due east of the southern boundary line of Section 50, Range 10 East, Township 9 North; then west across the Mississippi River levee and along the southern boundary line of Sections 50 and 51, Range 10 East, Township 9 North to its junction with the eastern border of the Lake St. John oil and gas field; then north along this border to the Concordia - Tensas parish line; then west along the parish line to its junction with the northern edge of Lake St. John; then south along the western edge of Lake St. John to its junction with the southeast corner of the property line of the North Half of Lower Coosa Plantation in Section 34, Range 10 East, Township 9 North; then southwest along this property line to a point on the northern boundary line of Section 2, Range 9 East, Township 8 North marked by a stake with pointers marked "X" (indicating the northwest property boundary of Pittsfield Plantation); then southeast in a straight line to the northeastern corner of Section 56, Range 9 East, Township 8 North; then continuing along the eastern boundary line of this section across state highway 568 to the Lake Concordia levee; then southwest along the levee to the point where state road 900 intersects state highway 568 adjacent to the levee; then southeast in a straight line across Lake Concordia to the western edge of a natural tree row; then continuing southeast along the tree row to the point where the tree row makes a 90° turn toward the northeast; then extending southeast beyond this point to state road 3196; then northeast along state road 3196 to the point where the road intersects the Mississippi River levee; then southeast along a line at a 20° angle from this intersection to the Louisiana - Mississippi state line (this is inclusive of Mud Lake and the northern half of the Fairchilds Bend oil field); then north along the Louisiana - Mississippi state line to the point of beginning.

MISSISSIPPI

1. Generally infested area: None
2. Suppressive area: That portion of Washington County as follows:

That portion of the county lying within Township 18 North, Range 7 West, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, and 24; and Township 18 North, Range 6 West, Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18.

NEVADA

1. Generally infested area: The entire counties of Clark and Nyle.
2. Suppressive area: None.

NEW MEXICO

1. Generally infested area: The entire state.

OKLAHOMA

1. Generally infested area: The entire state.

TEXAS

1. Generally infested area: The entire state.

3.0 Phytophagous Snails

The entire states of California and Arizona.

4.0 Leaf Scald (*Xanthomonas albilineans*)

All areas of the country where sugarcane is grown.

5.0 Lethal Yellowing

The states of Florida and Texas.

6.0 Sweet Potato Mosaic

The states of Alabama and Georgia and any other state which may hereafter be found to be infected with sweet potato mosaic; and all other states which do not maintain restrictions against the movement of regulated products from the quarantined area.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The states of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

ARKANSAS

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

ILLINOIS

Entire state.

INDIANA

Entire state.

IOWA

Entire state.

KANSAS

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

KENTUCKY

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves,

Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

MARYLAND

Infected Counties: Allegany, Frederick, Garrett, and Washington.

MICHIGAN

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

MINNESOTA

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

MISSOURI

Entire state.

NEBRASKA

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

NORTH CAROLINA

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

OHIO

Entire state.

OKLAHOMA

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

PENNSYLVANIA

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

SOUTH CAROLINA

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

TENNESSEE

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

TEXAS

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

VIRGINIA

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun,

Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

WEST VIRGINIA

Infected counties: all counties *except* Tucker and Webster.

WISCONSIN

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

ALABAMA

Entire state.

ARKANSAS

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

FLORIDA

Entire state.

GEORGIA

Entire state.

KENTUCKY

County of McCracken.

LOUISIANA

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

MISSISSIPPI

Entire state.

MISSOURI

County of Dunklin.

NORTH CAROLINA

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

SOUTH CAROLINA

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

TENNESSEE

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

TEXAS

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker [*Xanthomonas campestris* pv *citri* (Hase) Dawson]

That portion of Manatee and Highlands Counties in Florida, and any future areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 *et seq.*

12.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]

ILLINOIS

Counties of Kane and Will.

INDIANA

Counties of Allen, Elkhart, Fulton, Jasper, Kosciusko, Lagrange, Lake, La Porte, Marshall, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Wells, and Whitley.

MICHIGAN

Counties of Berrien, Cass, Ingham, Monroe, and St. Joseph.

NEW YORK

Counties of Erie and Niagara.

OHIO

Counties of Ashland, Ashtabula, Cuyahoga, Geauga, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, Summit, Trumbull, and Wayne.

PENNSYLVANIA

Counties of Crawford, Erie, and Lawrence.

Bob Odom
Commissioner

POTPOURRI

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, May 8, 1993, at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Claims

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 56 claims in the amount of \$185,387.30 were received in the month of March, 1993. Forty-eight claims in the amount of \$124,046.63 were paid and one claim was denied.

Loran coordinates of reported underwater obstructions are:

27890	46839	Terrebonne
29708	46907	Plaquemines
28147	46825	Lafourche
27990	46824	Terrebonne
27730	46884	Terrebonne
29079	46798	Plaquemines
18173	46818	Lafourche
28372	46832	Lafourche
27019	46952	Cameron
27684	46882	Iberia
27924	46856	Terrebonne
27953	46851	Terrebonne

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales
Secretary

POTPOURRI

**Department of Revenue and Taxation
Severance Tax Division**

Natural Gas Severance Tax Rate

Pursuant to the authority granted by R.S. 47:633 (9)(d)(ii), the Department of Natural Resources has determined the "gas base rate adjustment" for the 12-month period ending March 31, 1993, to be 1.0679. Accordingly, the Department of Revenue and Taxation, Severance Tax Division has determined the severance tax rate on natural gas and related products described in R.S. 47:633 (9)(a) to be 7.5 cents per thousand cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit, effective July 1, 1993. This rate was arrived at by multiplying the "gas base rate" adjusted by seven cents.

The reduced rates provided for in R.S. 47:633 (9)(b) and (c) remain the same.

The determination of this "gas base rate adjustment" and corresponding tax rate and their "publication in the *Louisiana Register* shall not be considered rulemaking within the intentment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953." Thus, neither a fiscal impact statement nor notice of intent is required.

Questions should be directed to Linda Denney, Director of the Severance Tax Division, phone (504) 925-7497.

Ralph Slaughter, C.P.A.
Secretary

POTPOURRI

Department of Social Services Office of Community Services

Block Grant (SSBG) State Plan FY 93-94

The Louisiana Department of Social Services (DSS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (FY) beginning July 1, 1993 and ending June 30, 1994. The proposed FY 93-94 SSBG Intended Use Report has been developed in compliance with requirements of Section 2004 of the Social Security Act, as amended, and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the Social Security Act further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." DSS as the designated state services agency will continue to administer programs funded under the Social Services Block Grant in accordance with applicable statutory requirements and federal regulations. The DSS/Office of Community Services (OCS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of federal SSBG funds. Estimated SSBG expenditures (including LIHEAP transfer funds) for FY 1993-94 total \$47,598,781.

Louisiana through the DSS Office of Community Services will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are proposed for provision without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the Intended Use Report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 93-94 are:

1. adoption (pre-placement to termination of parental rights);
2. child protection (investigation of child abuse/neglect reports, assessment, evaluation, social work intervention, shelter care, counseling, referrals, and follow-up);
3. day care for children (direct care for portion of the 24-hour day);
4. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);
5. foster care/residential habilitation services (foster, residential care and treatment on a 24-hour basis);
6. homemaker (in-home personal care and chore services);
7. training/treatment (assistance to improve personal skills, adjustment, and knowledge).

Definitions for the proposed services are set forth in the Intended Use Report. Proposed funding for purchased

homemaker and training/treatment services is contingent upon appropriation of state general funds.

Persons eligible for SSBG funded services include:

1. persons without regard to income, who are in need of adoption services, child protection, family services, and foster care/residential habilitation services;
2. individuals without regard to income who are certified as Gary W. classmembers, and those who are recipients of Title IV-E Adoption Assistance;
3. recipients of Supplemental Security Income (SSI) and recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients;
4. low-income persons (income eligibles) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$1,495 would qualify as income eligible for services;
5. persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as group eligibles.

The proposed SSBG Intended Use Report for FY 1993-94 is available for public review at OCS parish and regional offices Monday through Friday from 8:30 a.m. to 4 p.m. Copies are available without charge by telephone request to (504) 342-2272 or by writing the assistant secretary, Office of Community Services, Box 3318, Baton Rouge, LA 70821. Inquiries and comments on the proposed plan may be submitted until May 28, 1993, to the assistant secretary, OCS, at the above address.

A public hearing on the proposed SSBG Intended Use Report for FY 1993-94 is scheduled for 10 a.m. on Wednesday, May 12, 1993 at the Office of Community Services, Conference Room 806, Commerce Building, 333 Laurel Street, Baton Rouge.

At the public hearing all interested persons will have the opportunity to provide recommendations on the proposed SSBG plan, orally or in writing. Written comments will be accepted through May 28, 1993.

Post-expenditure reports for the SSBG program for state fiscal years 1990-91 and 1991-92 are included in the SSBG Intended Use Report for FY 93-94 and are available for public review at the Office of Community Services, 333 Laurel Street, Room 802, Baton Rouge.

Gloria Bryant-Banks
Secretary

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