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Executive Orders

EXECUTIVE ORDER EWE 95-27

Unclassified Employee Leave

WHEREAS: Executive Order EWE 94-32 was executed to provide for rules and policies on annual and sick leave for certain unclassified state employees; and

WHEREAS: it is necessary to amend Executive Order EWE 94-32 by adding a new classification of persons to be included under those rules;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby amend Section 4.C of Executive Order EWE 94-32 as follows:

SECTION 4: Earning of Annual or Sick Leave

C. ...

6. Any local political subdivision which hires as a full-time unclassified employee a person who has provided contract services for more than 10 consecutive years on a greater than part-time basis consisting of work equivalent in nature to the duties of such unclassified employee, may consider the years contract services were provided as equivalent to years of full-time service in determining the rate at which annual leave and sick leave is accrued by any such unclassified employee.

FURTHER, the provisions of the executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 7th day of September, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9510#016

EXECUTIVE ORDER EWE 95-28

EBR Mortgage Authority Bond Allocation

WHEREAS: Executive Order EWE 95-23 signed July 19, 1995 allocated \$12,500,000 to the East Baton Rouge Mortgage Authority from the 1995 Ceiling for the purpose of financing mortgage loans for first time home buyers

throughout the Parish of East Baton Rouge in accordance with the provisions of Section 143 of the Internal Revenue Code of 1986, as amended; and

WHEREAS: Section 3 of Executive Order EWE 95-23 provides that the allocation granted thereby shall remain in full force and effect through September 30, 1995, provided that such bonds are delivered to the initial purchasers thereof on or about September 30, 1995; and

WHEREAS: the bond closing for the Series 1995B Bonds (the delivery to the initial purchasers thereof) shall take place on or about October 5, 1995 exceeding the September 30, 1995 deadline as set forth in Section 3 of Executive Order EWE 95-23 by approximately one week.

WHEREAS: in accordance with Section 4.8 of Executive Order EWE 92-47, the issuer has requested a 30-day extension of the validity of the allocation from the 1995 ceiling granted to issuer on July 19, 1995, pursuant to Executive Order EWE 95-23 to permit the issuer to deliver the Series 1995B bonds on October 5, 1995, but in no event later than October 30, 1995.

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, do hereby amend Section 3 of Executive Order EWE 95-23 as follows:

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through October 30, 1995, provided that such bonds are delivered to the initial purchasers thereof on or before October 30, 1995.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of September, 1995.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9510#017

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional Children

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, Bulletin 1706, regulations for implementation of the Exceptional Children's Act.

Readoption of the emergency rule is necessary in order to continue the federally required changes until they are finalized as a rule. The effective date of this emergency rule is November 1, 1995. It will remain in effect for 120 days or until finalized as a rule whichever occurs first.

Emergency adoption is necessary because the Office of Special Education Programs in the U.S. Department of Education has been assured that these regulations would be in effect and enforceable by July 1, 1994. This is required in order for the Louisiana State Plan for Special Education to be approved and Part B dollars to be released to Louisiana.

Bulletin 1706 may be viewed in its entirety in the Office of the State Register, Capitol Annex, Room 512, 1051 North Third Street, Baton Rouge, LA; Office of Special Educational Services; State Department of Education; or in the Office of the State Board of Elementary and Secondary Education, located on the first floor of the Education Building in Baton Rouge, LA.

Carole Wallin
Executive Director

1506#009

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of Public Health

Abortion Alternatives (LAC 48:V.12314)

The Department of Health and Hospitals, Office of Public Health adopts the following emergency rule pursuant to R.S. 49:950 et seq. and pursuant to Act 648 of the 1995 Regular Session of the Louisiana Legislature, relative to informed consent of a woman prior to an abortion being performed. This emergency rule shall be effective beginning September 25, 1995 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The adoption of this rule is necessary because there exists an urgency for the need of obtaining informed consent of a pregnant woman prior to the performance of an abortion. As expressed by the Louisiana Legislature in Act 648, there are risks to a woman's reproductive health associated with different abortion methods, "devastating psychological consequences" can result when an abortion is elected without a woman being fully informed, the medical, emotional and psychological consequences of an abortion are serious and can be lasting", and it is imperative that [the decision to abort] be made with full knowledge of its nature and consequences." (See Act 648).

Title 48 PUBLIC HEALTH - GENERAL Part V. Preventive Health Services Subpart 45. Vital Records

Chapter 123. Documents Related Abortion - Informed Consent

§12314. Documents Related to Informed Consent - Abortion; Distribution and Reporting Procedures

A. Distribution

1. The printed materials which the department is required to publish pursuant to Act 648 of the 1995 Regular Legislative Session shall be made available at no cost, upon request by any person, facility or hospital. Such materials shall include the pamphlet (entitled *Abortion: Making A Decision*) describing fetal development and the risks associated with different abortion methods, the directory of agencies which provide "abortion alternative services" and the certification form (PHS 16-IC) and accompanying instruction sheet.

2. The facility or hospital requesting the pamphlet, directory or certification form shall direct all requests, via mail or facsimile to the following: The Office of Public Health, 325 Loyola Avenue, Room 610, New Orleans, LA 70112, (504) 568-5330, FAX: (504) 568-3786,

3. The following information shall be included in the request by a facility or hospital:

(a). name of the person, facility or hospital making the request;

(b). total number of pamphlets and directories requested;

(c). total number of certification forms requested.

4. An individual who is not representing a physician, facility or hospital may request the materials by calling the Office of Public Health at the number listed in Subsection A.2 herein. The materials will be mailed to the individual.

B. Reporting

1. A physician shall report the following information to the department within 15 days of the information and materials being provided:

(a). name and address of the facility where the required information was provided;

(b). information as required by R.S. 40:1299.35.10(A)(1) and (4) through (18) inclusive; and

(c). copy of the certification form, if executed by the woman.

2. A physician who performs an abortion shall report the following information to the department within 15 days of the abortion:

(a). all information as required by R.S. 40:1299.35.10;

(b). date upon which the required information and materials were provided; and

(c). executed copy of the certification form.

Note: A physician who reports under Subsection B.2

need not comply with the reporting requirements of Subsection B.1 herein.

3. In addition to the reporting requirements set forth in Paragraphs 1 and 2 above, a physician who performs abortions shall report to the department the total number of executed certification forms received monthly. The total number of certification forms received during the calendar month shall be reported within seven days following that calendar month.

4. The information required to be reported pursuant to Subsection B.1, 2 and 3 herein shall be reported to the department, the Office of Public Health at the following address: Director and State Registrar, Division of Records and Statistics, Office of Public Health, Box 60630, New Orleans, LA 70160.

AUTHORITY NOTE: Promulgated in accordance with Act 648 of the 1995 Regular Legislative Session, which amends and reenacts R.S. 40:1299.35.6.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, LR 21:

Interested persons may submit written comments to: Sharon Howard, Office of Public Health, Office of Public Health, Box 60630, New Orleans, LA 70160. She is the person responsible for responding to inquiries regarding this emergency rule.

Eric Baumgartner, M.D., M.P.H.
Assistant Secretary

9510#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary

Annual Service Agreement

The Louisiana Health Care Authority and the Department of Health and Hospitals, Office of the Secretary, are adopting the following emergency rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1).

The purpose of this emergency rule is to assure continuing coverage of the operations of the hospitals under the jurisdiction of the Louisiana Health Care Authority by the completion of an annual service agreement required by Act 390 of 1991.

Annual Service Agreement

Introduction

This Service Agreement for State Fiscal Year 1995-96 is entered into by the Department of Health and Hospitals (DHH) and the Louisiana Health Care Authority (LHCA) in compliance with R.S. 46:701 et seq., as amended and reenacted by Act 390 of 1991.

I. Definitions

A. *Medically Indigent*—any bona fide resident of the state of Louisiana whose family unit size and gross income is less than or equal to 200 percent of the Federal Poverty Income Guidelines for that size family unit, rounded up to the nearest thousand dollars.

B. *Overcollections*—any monies from Medicare, Medicaid or other third party payor, or from direct patient payments, collected by or on behalf of the medical centers operated by the LHCA in excess of the amounts budgeted in the General Appropriations Bill for FY 1995-96, as enacted, for operating expenses, as certified by the commissioner of administration and the Joint Legislative Committee on the Budget.

C. *Licensed Beds*—the number of beds in each medical center licensed by the Bureau of Health Services Financing and certified for participation in the Medicaid and Medicare programs.

II. General Agreement

The Department of Health and Hospitals is authorized by law to provide health and medical services for the uninsured and medically indigent citizens of Louisiana directly, through the operation of health care facilities, or indirectly by agreement with the Louisiana Health Care Authority.

The LHCA agrees to provide inpatient and outpatient hospital services on behalf of the Department of Health and Hospitals. The LHCA acknowledges that the provision of services to the medically indigent, to the uninsured and to others with problems of access to health care is its highest priority.

DHH agrees to work cooperatively with the authority to provide acute mental health services at authority facilities.

III. Provision of Adequate Health Care Services

In accordance with the intent of Act 390 of 1991, the Louisiana Health Care Authority will strive to provide health services of sufficient quality and volume to meet the needs of the uninsured and medically indigent citizens of Louisiana. The LHCA and DHH agree that for FY 1995-96, adequate services shall be considered to consist of the following:

A. Those major services that are available at the medical centers on June 30, 1995 to any bona fide resident and taxpayer of the state of Louisiana determined to be uninsured, underinsured, or medically indigent and that are funded in the General Appropriation bill for FY 1995-96, provided that such appropriated funds are made available to the medical centers.

B. Adequate service provision shall also require that the medical centers maintain policies of access to services governed by the following:

1. The medically indigent or uninsured shall be afforded first priority for admission for any form of treatment available at the particular medical center.

2. Those persons who are determined not to be

medically indigent or uninsured shall be admitted on a space available basis and shall be reasonably charged for treatment or service received.

3. Emergency treatment shall not be denied to anyone.

IV. Elimination or Relocation of Services

A. The LHCA shall notify the secretary of DHH at least 60 days in advance of any elimination or relocation to another medical center of any major programs or services, or establishment of Centers of Excellence that require shifting of major services provided on the date of this agreement.

B. DHH shall notify the chief executive officer of LHCA at least 60 days in advance of any elimination or relocation of its psychiatric units or other DHH programs or services provided in the LHCA Medical Centers.

C. The LHCA agrees not to construct, operate or fund a health care facility, or substantial portion thereof, which primarily treats insured patients other than those covered by Medicare and Medicaid.

V. Service Improvement and Development

A. The LHCA recognizes the need to improve and expand services in the medical centers in order to more fully meet the health care needs of the uninsured and medically indigent citizens of Louisiana. The authority will work to improve access to care, placing highest priority on the following:

1. reduced waiting times for all outpatient services for which there exist medically inappropriate delays in scheduling appointments;
2. improved access to emergency services;
3. improved access to prenatal and HIV clinics.

B. LHCA shall not develop new programs or major program expansions in the areas of public health, substance abuse, mental health, or mental retardation without the concurrence of DHH.

C. In accordance with recognized primary care needs, as identified by state and federal criteria, the DHH Primary Care Access Plan, the State Rural Health Care Plan, the LHCA Strategic Plan and other mutually agreed upon priorities, DHH and LHCA will work together to meet those needs. This shall be accomplished by a joint DHH/LHCA Planning Task Force.

VI. Financing Arrangements

A. DHH agrees not to adjust interim Medicaid payment rates, target rates, disproportionate share formulas, or to amend the Medicaid State Plan as it relates to inpatient and outpatient hospital services, without timely notice to the LHCA CEO.

B. LHCA agrees not to submit any Budget Adjustment (BA-7) request to DOA which increase the expenditure authority of its facilities without prior notice to the secretary of DHH.

C. DHH agrees not to submit any BA-7's to DOA where the means of financing would reflect use of

unbudgeted overcollections from the LHCA without prior notice to the LHCA chief executive officer.

D. DHH and LHCA agree that prior to the March meeting of the Joint Legislative Committee on the Budget a meeting will be held to determine the amount of funds to be transferred from the Louisiana Health Care Authority to the Department of Health and Hospitals, as required by law.

E. LHCA agrees to adhere to DHH Policy No. 4600-77 (DHH Liability Limitation Policy), with regard to the liability for payment for services by those inpatients who are classified as self pay, until such time as a revised policy may be promulgated by the authority through the Administrative Procedure Act.

F. LHCA is to provide a 90-day notice if they intend to cancel any operational service agreement with DHH facilities that could adversely affect the LHCA facilities budget.

G. DHH is to provide a 90-day notice if they intend to cancel any operational service agreement with DHH facilities that could adversely affect the LHCA facilities budget.

VII. Annual Revision of Service Agreement

DHH and the LHCA agree to revise this service agreement on an annual basis, as required by law, and to promulgate the agreement through the Administrative Procedure Act. The draft annual agreement shall be published in the *Louisiana Register* each year, in order for significant changes to be considered in the budget process for the ensuing fiscal year.

Rose V. Forrest
Secretary
Health and Hospitals

William B. Cherry, M.D.
Chief Executive Officer
Health Care Authority

9510#042

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and
Treatment (EPSDT) Services

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

pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses providers a flat fee for service for certain EPSDT-related services provided to recipients under 21 years of age. These related services include the provision for eyeglasses and hearing aids. These services are unlimited.

The bureau has now determined it is necessary to limit coverage for EPSDT eyeglasses to three per year with a provision for extension if medically necessary and to reduce the provider reimbursement fees by 15 percent for the following EPSDT services effective for dates of service November 3, 1995 and after: EPSDT eyeglasses and EPSDT hearing aids.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for EPSDT Services by approximately \$4,468,124 for state fiscal 1995-1996. An emergency rule was first adopted effective July 7, 1995, and published in the *Louisiana Register* (Volume 21, Number 7). A notice of intent was also published (*Louisiana Register* Volume 21, Number 9).

Emergency Rule

Effective for dates of service of November 3, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing limits EPSDT eyeglasses to three per year with provision for extending if medically necessary and reduces reimbursement fees by 15 percent for providers of the following early periodic screening diagnosis and treatment services:

EPSDT Eyeglasses:

Procedure Codes - X6366-X6368; X6370-X6376; X9066-X9068; and X-0089.

EPSDT Hearing Aids:

Procedure Codes - X-0192; V5030; V5040; V5050; V5060; V5070; V5080; V5100; V5120; V5130; V5140; V5150; V5170; V5180; V5190; V5210; V5220; V5230; and V5299

Rose V. Forrest
Secretary

9507#0034

DECLARATION OF EMERGENCY

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

Emergency Medical Transportation: Air Ambulance

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The bureau reimburses air ambulances services including helicopter and fixed wing air ambulance services in accordance with the provider's usual and customary rate as determined by the Medicaid Program minus the amount which any third party coverage would pay. The department has now determined that this reimbursement methodology must be repealed and a new methodology established based on Medicare's reimbursement. This action is necessary to avoid a budget deficit in the medical assistance programs. Therefore, the bureau is adopting the following emergency rule establishing a new reimbursement methodology and implementing standards for payment governing the reimbursement of air medical services. It is anticipated that adoption of this emergency rule will reduce expenditures for air ambulance services by approximately \$535,000 during state fiscal year 1995 and 1996. An emergency rule was first adopted effective July 7, 1995, and published in the *Louisiana Register* (Volume 21, Number 7). A notice of intent was also published (*Louisiana Register*, Volume 21, Number 9).

Emergency Rule

Effective for dates of service November 3, 1995, and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, establishes the following regulations in the Emergency Medical Transportation Program for the reimbursement of air ambulance services.

I. Reimbursement Methodology

Medicaid will pay a base rate plus mileage according to

the rates in effect for Medicare as of January 1, 1995. Separate reimbursement for oxygen and disposable supplies will be made when the provider incurs these costs. Reimbursement for these services will be made in accordance with the rates previously established by Medicare and approved by Medicaid effective April 1, 1995.

II. Standards for Payment

1. Helicopters and fixed winged aircraft must be certified by the Department of Health and Hospitals, Bureau of Health Services Financing in order to receive Medicaid reimbursement and all air ambulance services must be provided in accordance with the state law and regulations governing the administration of these services. All air ambulance services must comply with the state law and regulations governing the personnel certifications of the emergency medical technicians administered by the Department of Health and Hospital's Bureau of Emergency Medical Services.

2. The Prior Authorization Unit of the fiscal intermediary must approve the medical necessity for all air ambulance services.

3. The Prior Authorization Unit of the fiscal intermediary must review air ambulance claims and either approve or disapprove these services based on the following requirements:

a. Air ambulance services are covered only if speedy admission of the patient is essential and the point of pick-up of the patient is inaccessible by land vehicle or great distances or other obstacles are involved in getting the patient to the nearest hospital with appropriate facilities.

b. Payment for air mileage will be limited to actual air mileage from the point of pick-up to the point of delivery of the patient.

c. Payment for a round trip transport on the same day between two hospitals, is the base rate plus the round trip mileage.

d. If a land ambulance must be used for part of the transport, the land ambulance provider will be reimbursed separately according to rules and regulations for ground ambulance services.

Rose V. Forrest
Secretary

9510#035

DECLARATION OF EMERGENCY

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

**Emergency Medical Transportation:
Nonemergency Ambulance**

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

adopted the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule whichever occurs first.

The bureau provides reimbursement for nonemergency ambulance services. Payment for these services is the amount of the provider rate for the service established by the bureau minus the amount which any third party coverage would pay. The bureau has determined it is necessary to reduce by 20 percent the established provider rate for nonemergency ambulance services. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for nonemergency ambulance services by approximately \$1,149,589 for state fiscal year 1995-1996. An emergency rule was adopted effective July 7, 1995, and published in the *Louisiana Register* (Volume 21, Number 7). A notice of intent was also published (*Louisiana Register* Volume 21, Number 9).

Emergency Rule

Effective for dates of service November 3, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces by 20 percent the established provider rate for nonemergency ambulance transportation services.

Rose V. Forrest
Secretary

9510#036

DECLARATION OF EMERGENCY

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

**Home and Community Based Services
Waiver Program—Mentally Retarded/Developmentally
Disabled Waiver**

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

adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has provided that approved slots in Home and Community Based Services waivers which are vacated may be filled by allocating the vacated slot to the next available person on the appropriate waiting list. That person, if found eligible, became the next occupant of the slot. This process has been followed because participation in each Home and Community Based Services waiver is limited to a specific number of participants. Filling slots as soon as they were vacated allowed participation by a maximum number of participants. Restriction of number of participants by allocating slots is necessary to remain within the number of participants specified in the waiver approval.

The bureau adopted an emergency rule (*Louisiana Register*, Volume 21, Number 7) which revised its policy on filling vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) waiver by mandating that vacated slots shall not be filled except that the eligibility determination process shall be completed in the following circumstances: (1) for those persons whose applications for waiver services were filed in the parish BHSF office prior to July 13, 1995; and (2) for those foster children who have been designated by court order and who are in the custody of the Office of Community Services for whom that agency will provide the state funds required to match federal financial participation for the waiver. A notice of intent on this action was also published in the *Louisiana Register*, Volume 21, Number 8, which proposed to adopt this policy as a rule under the Administrative Procedure Act.

The bureau has now determined that it is necessary to revise this policy for filling slots in the MR/DD Waiver in order to ensure greater accessibility to the services included under this Home and Community Based Program. This action is necessary to protect the health and welfare of those persons in need of services provided by the MR/DD Waiver Program. Vacancies in the MR/DD Waiver Program shall be filled by allocating a vacated slot to the next available person on the appropriate waiting list. That person, if found eligible, becomes the occupant of that slot. If that person is not found eligible the next available person not he appropriate waiting list will be reviewed for eligibility for the waiver slot. This process is continued until the slot is filled. The number of slots to be filled shall not exceed the number of filled slots as of September 1, 1995. Therefore the bureau has

adopted the following emergency rule which amends the July 13, 1995 emergency rule (*Louisiana Register*, Volume 21, Number 7, page 653) and specifies the method of filling of vacant participation slots in the MR/DD waiver program. In addition the bureau will not pursue adoption of the proposed rule on filling of vacant participation slots for MR/DD Waiver Program contained in the notice of intent published on September 20, 1995 (*Louisiana Register*, Volume 21, Number 9).

Emergency Rule

Effective October 10, 1995, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 13, 1995 emergency rule (*Louisiana Register*, Volume 21, Number 7, Page 653) and revises the method of filling vacant participation slots in the MR/DD Waiver Program. Vacated slots will be filled by allocating a vacated slot to the next available person on the appropriate waiting list. That person, if found eligible, becomes the occupant of that slot. If that person is not found eligible, the available person on the appropriate waiting list will be reviewed for eligibility for the waiver slot. This process is continued until the slot is filled. The number of slots to be filled shall not exceed the number of filled slots as of September 1, 1995.

Rose V. Forrest
Secretary

9510#062

DECLARATION OF EMERGENCY

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

Hospital Program: Inflation

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program and as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning October 28, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing provides coverage under the Medicaid Program for inpatient services provided by acute inpatient hospitals as defined in 42 CFR Subpart B, hospital services subject to the prospective payment systems for inpatient operating costs and inpatient capital-related costs, Section 412.23(e). Inpatient hospital services are mandatory under Title XIX of the Social Security Act. The department has provided reimbursement for inpatient acute hospital services according to prospective rates established as allowable under the prospective hospital reimbursement methodology rule (*Louisiana Register* June 20, 1994, Volume 20, Number 6). The payment rates are trended to the midpoint of the payment year using the DRI Type Hospital Marketbasket Index. The department has now determined that it is necessary to amend this reimbursement methodology for inpatient acute hospital services by initiating a policy whereby the payment rates will be trended to the midpoint of the payment year using the lowest of DRI Type Hospital Marketbasket Index, the Consumer Price Index - All Urban Consumers or the Medicare PPS Marketbasket Index. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Medicaid Program by approximately \$7,200,000 for state fiscal year 1995-1996. Therefore this emergency rule amends the provision in the prospective hospital reimbursement methodology rule which determines how payment rates are trended forward. An emergency rule was first adopted effective July 1, 1995 and published in the *Louisiana Register* (Volume 21, Number 7) and a notice of intent was also published in the *Louisiana Register* (Volume 21, Number 9).

Emergency Rule

Effective for date of service October 28, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will inflate patient per diem rates to the midpoint of the payment year using the lowest of the DRI Type Hospital Marketbasket index, the Consumer Price Index - All Urban Consumers or the Medicare PPS Marketbasket Index.

Rose V. Forrest
Secretary

9510#030

DECLARATION OF EMERGENCY

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

Hospital Program: Median

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following rule

as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning October 28, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing provides coverage under the Medicaid Program for inpatient services provided by acute inpatient hospitals as defined in 42 CFR Subpart B, hospital services subject to the prospective payment systems for inpatient operating costs and inpatient capital-related costs Section 412.23(e). Inpatient hospital services are mandatory under Title XIX of the Social Security Act. The department has provided reimbursement for inpatient acute hospital services according to prospective rates established as allowable under the prospective hospital reimbursement methodology rule (*Louisiana Register* June 20, 1994, Volume 20, Number 6). The current methodology contains provisions which established a transition period whereas the Bureau of Health Services Financing blends rates above the weighted median per diem rate using 20 percent of the hospital specific per diem operating cost and 80 percent of the weighted median per diem rate for state fiscal year 1995-1996 and using 10 percent of the hospital specific per diem operating cost and 90 percent of the weighted median per diem rate for state fiscal year 1996-1997. The department has now determined that it is necessary to amend this reimbursement methodology for inpatient acute hospital services by eliminating the transition period whereby the department will reimburse no inpatient acute hospital above the weighted median per diem rate. The department will establish a weighted average per diem rate based on estimated payments under capped weighted medium per diem rates and will reimburse no inpatient acute hospital above the weighted average per diem rate. Specialty hospitals will be reimbursed at the lowest blended per diem rate for each specialty hospital category. For the purpose of this emergency rule, specialty hospitals are designated as long term hospitals, rehabilitation hospitals and Children's Hospital in New Orleans. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for acute inpatient hospital services in the Medicaid Program by approximately \$30,029,780 for

state fiscal year 1995-1996. Therefore this emergency rule deletes the provision in the prospective hospital reimbursement methodology rule which established blending for hospitals above peer group weighted median per diem rates. An emergency rule was first adopted effective July 1, 1995, and published in the *Louisiana Register* (Volume 21, Number 7) and a notice of intent was also published (*Louisiana Register*, Volume 21, Number 9).

Emergency Rule

Effective for date of service October 28, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will no longer reimburse acute hospitals for inpatient services above the peer group weighted median per diem rate for inpatient acute hospital services. The department will establish a weighted average per diem rate based on estimated payments under a capped weighted median per diem rate and will reimburse no inpatient acute hospital above the weighted average per diem rate. Medicaid per diem rates for inpatient acute hospitals with per diem rates above the peer group weighted average per diem rate will be reimbursed at the peer group weighted average per diem rate. Specialty hospitals will be reimbursed at the lowest blended per diem rate for each specialty hospital category. For the purpose of this emergency rule, specialty hospitals are designated as long term hospitals, rehabilitation hospitals and Children's Hospital in New Orleans.

Rose V. Forrest
Secretary

9510#031

DECLARATION OF EMERGENCY

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

Hospital Program—Acute Inpatient Hospital
Services, Outlier

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions,

including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning October 28, 1995, for the maximum time period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program reimburses hospitals for the catastrophic costs associated with medically necessary services provided to children under six years of age received in a disproportionate share hospital and for services to infants one year or under in all acute care general hospitals. An outlier payment was calculated on an individual case basis through which if covered charges for medically necessary services exceeded 200 percent of the prospective payment, payment was made at cost. This payment methodology was implemented effective July 1, 1994 under Prospective Hospital Reimbursement Methodology rule (*Louisiana Register*, June 20, 1994, Volume 20, Number 6). The department has determined that it is now necessary to amend this outlier reimbursement methodology by initiating a policy whereby the covered charges of each qualifying outlier case must exceed \$150,000 in addition to exceeding 200 percent of the prospective payment. Qualifying outlier cases will be reimbursed the marginal cost associated with the excess cost above the prospective payment amount. Marginal cost is considered to be 55 percent. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Medicaid Program by approximately \$14,570,500 for state fiscal year 1995-1996. An emergency rule was first adopted effective July 1, 1995 and published in the *Louisiana Register* (Volume 21, Number 7) and also as a notice of intent (Volume 21, Number 9).

Emergency Rule

Effective for discharges on or after October 28, 1995, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends its reimbursement methodology for qualification and calculation of outlier payments for catastrophic costs associated with medically necessary services provided to children under six in disproportionate share hospitals and for services to infants one year or under in all general acute care hospitals. To qualify for an outlier payment the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective payment. Outlier cases qualifying under the above criteria will be reimbursed the marginal cost associated with the excess cost above the prospective payment amount. Marginal cost is considered to be 55 percent of cost.

Rose V. Forrest
Secretary

9510#029

DECLARATION OF EMERGENCY

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

Hospital Program—Out-of-State Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning October 28, 1995, for the maximum allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing provides reimbursement for out-of-state hospital services at the rate of 72 percent of the billed charges. The bureau has determined it is necessary to revise the reimbursement for out-of-state hospital services by reducing the payment for these services. Reimbursement for outpatient hospital services is being reduced to 50 percent of billed charges. The reimbursement for inpatient hospital services is being reduced to the lesser of 50 percent of billed charges or the inpatient Medicaid per diem rate of the state wherein the services are provided. If the state wherein the inpatient services are provided does not use a per diem rate payment methodology, the bureau will reimburse the out-of-state hospital 50 percent of the billed charges. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for out-of-state hospital services by approximately \$3,451,776 for state fiscal year 1995-1996. An emergency rule was first adopted effective July 1, 1995 and published in the *Louisiana Register*, (Volume 21, Number 7) and also published as a notice of intent, (Volume 21, Number 9).

Emergency Rule

Effective with date of service October 28, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses out-of-state outpatient hospital services 50

percent of billed charges and reimburses out-of-state inpatient hospital services the lower of 50 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided. If the state wherein the inpatient services are provided does not use a per diem rate payment methodology, the bureau will reimburse the out-of-state hospital 50 percent of the billed charges.

Rose V. Forrest
Secretary

9510#028

DECLARATION OF EMERGENCY

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

Hospital Program—Outpatient

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning October 1, 1995, for the maximum allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing provides reimbursement for outpatient hospital services. These services other than those services subject to a fee schedule had been paid at the interim rate of 72 percent of the billed charges and adjusted to allowable cost through the cost report settlement process. The bureau has determined it is necessary to reduce the interim payment for outpatient hospital services by 17 percent. Final reimbursement for outpatient hospital services shall be adjusted to 83 percent of allowable cost through the cost settlement process except those subject to the Medicare fee schedule for laboratory which will be reduced 10 percent and outpatient surgeries subject to the Medicaid outpatient surgery list. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this

action will reduce expenditures for outpatient hospital services by approximately \$25,057,429 for state fiscal year 1995-1996. An emergency rule was first adopted effective July 1, 1995 and published in the *Louisiana Register*, (Volume 21, Number 7) and also published as a notice of intent in Volume 21, Number 9.

Emergency Rule

Effective with dates of service October 28, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses outpatient hospital services the interim rate of 60 percent of billed charges except those services subject to the fee schedule for laboratory services which will be reduced 10 percent and outpatient surgeries subject to the Medicaid outpatient surgery list. Final reimbursement for outpatient services shall be adjusted to 83 percent of allowable cost through the cost report settlement process except those services subject to the Medicare fee schedule for laboratory services and outpatient surgeries.

Rose V. Forrest
Secretary

9510#027

DECLARATION OF EMERGENCY

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

Intermediate Care Facility—Vendor Payments for Leave of Absence Days

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing provides coverage under the Medicaid Program for Intermediate Care Facility Services for the Handicapped and/or Mentally Retarded (ICF/MR) provided by Intermediate Care Facilities. The bureau's reimbursement methodology for these services has included payment for leave of absence days for hospitalization and other leave days. The number of payable leave of absence days had been limited to 15 days per hospitalization for treatment of an acute condition, and to 45 days per state fiscal year for other leave days with a 14-day interval limit per temporary absence per recipient. Leave days for the following

purposes were limited to 14 days per occurrence and were excluded from the annual 45-day limitation:

- (1) Special Olympics;
- (2) Roadrunner sponsored events;
- (3) Louisiana planned conferences;
- (4) trial discharge leaves.

Effective July 13, 1995, the department implemented an emergency rule (*Louisiana Register*, volume 21, Number 7) which lowered the above number of payable leave of absence days to five days per hospitalization for treatment of an acute condition and to 22 days per state fiscal year for other leave days. The limit per occurrence and the allowed exclusions from the annual limitation were maintained as payable under this emergency rule.

The department has now determined that it is necessary to increase payable leave of absence days for the residents of these facilities in order to protect the health and welfare of these residents by affording them increased opportunities to be with their families and to maintain their familial bonds. It is estimated that implementation of this emergency rule will increase expenditures by approximately \$2,205,840 for state fiscal year 1995-1996 thereby reducing the cost savings initially projected for the implementation of the July 13, 1995 emergency rule to approximately \$10,398,160.

Emergency Rule

Effective for dates of service beginning November 1, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the July 13, 1995 emergency rule (*Louisiana Register*, Volume 21, Number 7, page 643) and establishes the following number of payable leave of absence days for residents of Intermediate Care Facilities for the handicapped and mentally retarded.

- (1) Beds are reserved for up to five days per hospitalization for treatment of an acute condition; and
- (2) Beds are reserved for up to 30 days per state fiscal year for other leave days with a 14-day limit per temporary absence per recipient. Leave days for the following purposes shall be limited to 14 days per occurrence and shall be excluded from the annual 30-day limitation:

- (1) Special Olympics;
- (2) Roadrunner sponsored events;
- (3) Louisiana planned conferences;
- (4) trial discharge leaves.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

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

Rose V. Forrest
Secretary

9510#063

DECLARATION OF EMERGENCY

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

KIDMED Medical Screening

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses KIDMED providers an all-inclusive fee of \$60 per EPSDT/KIDMED medical screening, whether performed by or under the supervision of a licensed physician, or by a certified physician assistant or registered nurse within their scope of practice permitted by state law, for recipients under 21 years of age in accordance with a periodicity schedule established under federal and state guidelines. Louisiana's fees have been significantly higher than that in other states.

The bureau is revising the fee for reimbursement of EPSDT/KIDMED medical screening effective for dates of service November 3, 1995 and after. The fee for EPSDT/KIDMED medical screenings performed by or under the supervision of a licensed physician, or by a certified physician assistant or registered nurse shall be reduced to \$51 per EPSDT/KIDMED medical screening.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for EPSDT/KIDMED screening by approximately \$3,383,731 for state fiscal 1995-1996. An emergency rule was first adopted effective July 7, 1995, and published in the *Louisiana Register* (Vol. 21, No. 7) and a notice of intent was also published in the *Louisiana Register* (Vol. 21, No. 9).

Emergency Rule

Effective for dates of service of November 3, 1995 and after, the Department of Health and Hospitals, Office of

the Secretary, Bureau of Health Services Financing reimburses KIDMED providers \$51 under the Early Periodic Screening Diagnosis and Treatment program for medical screenings of Medicaid recipients under 21 years of age, which are performed by or under the supervision of a licensed physician, or by a certified physician assistant or registered nurse within their scope of practice permitted by state law.

Rose V. Forrest
Secretary

9510#033

DECLARATION OF EMERGENCY

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

Lab and X-ray Reimbursement

The Department of Health and Hospitals, Office of the Secretary has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals provides reimbursement for lab and x-ray services. Payment for lab services is made on the basis of the lower of: billed charges, state maximum amount, or Medicare fee schedule amount. Payment for x-ray services is made on a flat fee basis. The bureau has determined it is necessary to reduce by 15 percent the reimbursement for lab and x-ray services except for those services provided in an outpatient hospital setting. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the laboratory and x-ray services by approximately \$8,250,000 for state fiscal year 1995-1996. An emergency rule was first adopted effective July 7, 1995, and published in the *Louisiana Register* (Volume 21, Number 7). A notice of intent was also published (*Louisiana Register*, Volume 21, Number 9).

Emergency Rule

Effective for dates of service November 3, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services reduces reimbursement by 15 percent for lab and x-ray services except for those services provided in an outpatient hospital setting.

Rose V. Forrest
Secretary

9507#037

DECLARATION OF EMERGENCY

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

**Mental Health Rehabilitation Program—Services
for Nursing Facility Residents**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning October 10, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule to revise certain provisions of the Mental Health Rehabilitation Program in order to incorporate the program guidelines and interpretations of the Health Care Financing Administration. The rule was adopted on April 20, 1993 and published in the *Louisiana Register*, Volume 19, Number 4. A subsequent rule established service limits for certain mental health rehabilitation services and revised the definition of treatment integration to ensure the inclusion of appropriate therapeutic principles and skills for this service component to generate cost savings in the program. This rule was adopted on December 20, 1994 (*Louisiana Register*, Volume 20, Number 12). The Office of Mental Health and the Office of the Secretary for the

Department of Health and Hospitals adopted a rule defining adults with serious mental illness and children with emotional/behavioral disorders in September 20, 1994 (*Louisiana Register*, Volume 9, Number 9). The department has determined it is necessary that a nursing facility resident receive mental health rehabilitation services only if the individual has been through the pre-admission screening and annual resident review process and has been identified as needing specialized mental health services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Medicaid Program for the Mental Health Rehabilitation Program for Adults with Serious Mental Illness and Children with Emotional/Behavioral Disorders by approximately \$823,428 for state fiscal year 1995-1996. An emergency rule was first adopted July 13, 1995, and published in the *Louisiana Register* (Volume 21, Number 7) and a notice of intent was also published in the *Louisiana Register* (Volume 21, Number 9).

Emergency Rule

Effective for dates of service of October 10, 1995, and after, the Department of Health and Hospitals Bureau of Health Services Financing requires that a nursing facility resident must be identified as needing specialized mental health services through the pre-admission screening and annual resident review process in order to receive services under the mental health rehabilitation, clinic or any other mental health treatment program.

Rose V. Forrest
Secretary

9510#041

DECLARATION OF EMERGENCY

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

**Pharmacy Program: Maximum Allowable
Overhead Cost**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not

limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing has provided a pharmacists' dispensing fee in the Pharmacy Program in accordance with the methodology approved in the State Plan for the Maximum Allowable Overhead Cost, which includes a \$.10 provider fee collected on all prescriptions dispensed to Louisiana residents from pharmacies. The maximum allowable overhead cost was determined by updating the base rate through the application of various 1993 indices to appropriate cost categories to assure recognition of costs which must be incurred by efficiently and economically operated providers. The bureau has determined that it is necessary to freeze the maximum allowable overhead cost pharmacists' dispensing fee at the 1994-95 level in order to avoid a budget deficit in the medical assistance programs. Also, effective July 1, 1995, the Bureau of Health Services Financing began transitioning to a managed pharmacy system in which an on-line point of sale and prospective drug utilization review system will be implemented. To ensure appropriate reimbursement during this transitional period to a managed system for pharmacy services, the maximum allowable overhead cost shall remain at the level established for state fiscal year 1994-1995. It is estimated that this action will reduce expenditures in the Pharmacy Program by approximately \$3,219,304 for state fiscal 1995-1996. An emergency rule was first adopted effective July 7, 1995 and published in the *Louisiana Register* (Volume 21, Number 7). A notice of intent was also published (*Louisiana Register*, Volume 21, Number 9).

Emergency Rule

Effective for dates of service of November 3, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopts the following provisions applicable to the maximum overhead cost under the Pharmacy Program.

Maximum Allowable Overhead Cost

1. For fiscal year 1995-96, the maximum allowable overhead cost will remain for a one-year period at the level established for fiscal year 1994-95. This maximum allowable overhead cost was established by applying the 1993 indices to appropriate cost categories for a one-year period.

2. No inflation indices or any interim adjustments will be applied to the maximum allowable overhead costs for the time period, July 1, 1995 through June 30, 1996.

Rose V. Forrest
Secretary

9510#038

DECLARATION OF EMERGENCY

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

Private ICF/MR Facility Payment

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing provides coverage under the Medical Assistance Program for Intermediate Care Facility Services for the Handicapped and/or Mentally Retarded (ICF/MR) provided by Private Intermediate Care Facilities. ICF/MR services are optional under Title XIX of the Social Security Act; and states may choose the methodology for providing reimbursement for ICF/MR services. The department provides reimbursement for private ICF/MR services according to prospective rates established under the Reimbursement for Private ICF-MR Facilities rule (*Louisiana Register*, October 20, 1989, Volume 15, Number 10). The department issued an emergency rule effective July 1, 1995 (*Louisiana Register* Volume 21, Number 7) to change the reimbursement rates by limiting management fees and central office costs to a combined total of 6 percent of allowable costs. This emergency rule was necessary to avoid a budget deficit in the medical assistance program. The department has now determined that it is necessary to change the reimbursement rates by limiting administrative and general support costs to 24

percent of all other programmatic costs including plant operation and maintenance, costs related to capital assets, dietary expenses, linen and laundry expenses, housekeeping expenses, personal recipient needs, medical and nursing expenses, therapeutic and training expenses, recreational expenses, consultant expenses, educational expenses and in house ancillary services expenses. This provision establishes a more equitable methodology for implementing a cost savings among all private ICF-MR providers. The following emergency rule implements the above provision which continue the reductions in payments for ICF-MR services initiated with the July 1, 1995 emergency rule. These reductions are decreasing as it is estimated that this action will increase reimbursement to private ICF-MR facility providers by approximately \$285,209 for state fiscal year 1995-1996 thereby reducing the projected cost savings to \$10,787,567 for state fiscal year 1995-1996. The following emergency rule is effective upon the expiration of the July 1, 1995 emergency rule and amends the rule entitled Reimbursement for Private ICF-MR Facilities (*Louisiana Register* October 20, 1989, Volume 15, No. 10) by limiting administrative and general support costs to 24 percent of all other programmatic costs.

Emergency Rule

Effective for dates of service beginning October 29, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the rule entitled Reimbursement for Private ICF-MR Facilities (*Louisiana Register*, October 20, 1989, Volume 15, Number 10) by limiting administrative and general support costs to 24 percent of all other programmatic costs including plant operation and maintenance, costs related to capital assets, dietary expenses, linen and laundry expenses, housekeeping expenses, personal recipient needs, medical and nursing expenses, therapeutic and training expenses, recreational expenses, consultant expenses, educational expenses and in house ancillary services expenses.

Interested persons may submit written comments to the following address: Thomas D. Collins, 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 copy of this emergency rule is available at Parish Medicaid Offices for review by interested parties.

Rose V. Forrest
Secretary

9510#032

DECLARATION OF EMERGENCY

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

Professional Service Program: Physician Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses professional services according to established rates for Current Procedural Terminology (CPT) codes, locally assigned codes and HCPCS codes. Effective for dates of service November 3, 1995 and after, the bureau is reducing the reimbursement by 10 percent for the following codes:

CPT codes 10040 - 69979 for surgery

CPT codes 90700 - 99199 for medicine

CPT codes 99201 - 99499 for evaluation and management.

Also, fees for the following locally assigned codes and HCPCS codes will be reduced by 10 percent:

Z9001 through Z9006 - Prenatal labs, prenatal visits, postpartum visit

Z9916 - Brainstem evoked response screening

Z9919 through Z9920 - Androscopy with and without

Biopsy

00099 - Anesthesia for Arteriograms, Cardiac Caths,

CT Scans, Angioplasties and MRIs

Z9918 - Removal of Leaking Breast Implants

J0170 - Adrenalin Injections

J7190 - Factor VIII Injections for Hemophilia

J2910 - Gold Therapy Injections

J1055 - Depo-Provera C Injections

L8603 - Collagen Implant

In addition the fees for the following codes will be reduced by 15 percent:

CPT codes:

- 70010 - 79999 Radiology
- 80002 - 89399 Pathology and Laboratory

Locally assigned codes:

- Z0053 - Fructosamine
- Z0054 - Zinc Protoporphin
- Z0055 - Free Erythrocyte Protoporphin

Changes in reimbursement for the neonatal per diem codes 99295, 99296, and 99297 are included in an emergency rule on neonatology services reimbursement..

The fees being paid to anesthesiologists and CRNAs for procedure codes 62279 and 59515 are not included in this rule.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures in the Professional Services Program by approximately \$21,824,093 for state fiscal 1995-1996. An emergency rule was first adopted effective July 7, 1995, and published in the *Louisiana Register* (Volume 21, Number 7). A notice of intent was also published (*Louisiana Register*, Volume 21, Number 9).

Emergency Rule

Effective for dates of service November 3, 1995 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for procedure codes payable under the Professional Services Program in accordance with the following schedule.

I. The fees for the following CPT procedure codes are reduced by 10 percent:

A. CPT Codes:

- CPT codes 10040 - 69979 for surgery
- CPT codes 90700 - 99199 for medicine and
- CPT codes 99201 - 99499 for evaluation and management.

B. The following locally assigned codes and HCPCS codes:

- Z9001 through Z9006 - Prenatal labs, prenatal visits, postpartum visit
- Z9916 - Brainstem evoked response screening
- Z9919 through Z9920 - Androscopy with and without Biopsy
- 00099 - Anesthesia for Arteriogram, Cardiac Caths, CT Scans, Angioplasties and MRIs
- Z9918 - Removal of Leaking Breast Implants
- J0170 - Adrenalin Injections
- J7190 - Factor VIII Injections for Hemophilia
- J2910 - Gold Therapy Injections
- J1055 - Depo-Provera C Injections
- L8603 - Collagen Implant

II. The fees for the following procedure codes are reduced by 15 percent:

A. CPT Codes:

- 70010 - 79999 - Radiology

- 80002 - 89399 - Pathology and Laboratory

B. The following locally assigned and HCPCS codes:

- Z0053 - Fructosamine
- Z0054 - Zinc Protoporphin
- Z0055 - Free Erythrocyte Protoporphin

III. The reimbursement rates payable to anesthesiologists and CRNAs for procedure codes 62279 and 59515 and for the neonatal per diem codes 99295, 99296 and 99297 are not subject to this rule.

Rose V. Forrest
Secretary

9510#039

DECLARATION OF EMERGENCY

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

Rehabilitation Clinic Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect beginning November 3, 1995, for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Medicaid Program provides coverage and reimbursement for services delivered by rehabilitation clinics which are facilities that are not part of a hospital but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. States may choose to include or exclude clinic services under their medical assistance programs as these services are optional under Title XIX of the Social Security Act. The department has determined that it is necessary to reduce the reimbursement to these clinics for physical, occupational, speech, hearing and language therapies. This action is necessary to avoid a budget deficit in the

medical assistance programs. It is estimated that this action will reduce expenditures for rehabilitation clinic services by approximately \$543,699 for state fiscal 1995-1996.

The rehabilitative services physical, occupational, speech, hearing and language are still available and recipients may access these services through the hospital, physician, home health, rural health clinic and federally qualified health center programs. An emergency rule was first adopted effective July 7, 1995, and published in the *Louisiana Register* (Volume 21, Number 7). A notice of intent was also published (*Louisiana Register* Volume 21, Number 9).

Emergency Rule

Effective for dates of service of November 3, 1995 and after, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement by 10 percent to rehabilitation clinics which are facilities that are not part of a hospital but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies.

Rose V. Forrest
Secretary

9507#040

DECLARATION OF EMERGENCY

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

**Waiver Programs for 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 in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers the Home and Community Based Services Waiver Program through implementation of the Mentally Retarded Developmentally Disabled Waiver Program, the Home Care for the Elderly Waiver and the Personal Care Attendant (PCA) Services Waiver Program. The bureau provides coverage for various services under these Waiver Programs. Under the Mentally Retarded/Developmentally

Retarded Waiver Program the following services are reimbursed: 1) habilitation/supported employment follow-along and enclave/mobile crew; 2) prevocational habilitation; 3) day habilitation; 4) Individual Job/Intense Training (levels 1-4); 5) respite; 6) supervised independent living; and 7) personal care attendants services. Personal care attendant services are also provided to participants of the Personal Care Attendant Services Waiver Program and the Home Care for the Elderly Waiver. The department revised its regulations regarding all waiver services including service limits, delivery and reimbursement requirements as published in the *Louisiana Register*, Volume 21, No. 7. The department has now determined that it is necessary to repeal these emergency rules on the Home and Community Based Waiver Programs in order to protect the health and welfare of the persons in need of the services under these programs and has adopted the following emergency rule. Therefore, the effect of this repeal action is to reinstate the regulations existant prior to the July 1995 emergency rules.

Participation in the Mentally Retarded Developmentally Disabled Waiver Program through the allocation of slots was frozen through emergency rulemaking as published in the *Louisiana Register*, Volume 21, No. 7, page 652. Provisions to amend this action and to revise the method for administering the allocation of these slots is incorporated under a separate emergency rule.

Emergency Rule

Effective for dates of service October 10, 1995, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the following emergency rules for the Home and Community Based Services Programs which were published in the July 20, 1995, *Louisiana Register*, (Volume 21, 1995):

- 1) Mentally Retarded/Developmentally Disabled Waiver Program - Habilitation Supported Employment, page 652;
- 2) Mentally Retarded/Developmentally Disabled Waiver - Reimbursement Reductions, page 653;
- 3) Mentally Retarded/Developmentally Disabled Waiver - Respite, page 654;
- 4) Mentally Retarded/Developmentally Disabled Waiver - Supervised Independent Living, page 655; and
- 5) Home and Community-Based Waiver Program - Personal Care Attendant (PCA) Services, page 659.

Rose V. Forrest
Secretary

9510#026

DECLARATION OF EMERGENCY

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

Case Management Reimbursement

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or adoption of the rule, whichever occurs first.

The Bureau of Health Services Financing reimburses optional targeted case management services for the following specific population groups: 1) mentally retarded or developmentally disabled individuals; 2) developmentally disabled infants and toddlers; 3) high-risk pregnant women (limited to the metropolitan New Orleans area); 4) HIV infected individuals; 5) seriously mentally ill individuals. In addition reimbursement is provided under the Home and Community-Based Services Waiver Program for case management services provided to participants in the Home Care for the Elderly Waiver.

The department adopted emergency rules which enhanced program requirements by setting uniform standards for case management services delivered to the above referenced populations and specified the reimbursement methodology based on the provision of a 5-minute unit of service for the on-going services component of case management services. These rules were adopted effective July 22, 1994 and August 13, 1994 (*Louisiana Register*, Volume 20, Numbers 6 and 7). Subsequent emergency rulemaking continued this initiative in force as published in the *Louisiana Register*, November 20, 1994, Volume 20, Number 11; April 20, 1995, Volume 21, Number 4; and August 20, 1995, Volume 21, Number 8). The department has determined that it is necessary to discontinue the unit of service reimbursement methodology and to institute a monthly rate based on the minimum standards for service delivery appropriate for each population group. This action is necessary to avoid a budget deficit in the medical assistance programs. The following emergency rule repeals the unit of service reimbursement methodology for the on-going services component of case management services contained in the emergency rules cited above and adopts a monthly reimbursement rate for both components of case management services; the initial assessment/service plan development and the ongoing

services. However this emergency rule also provides for the following two exceptions: 1) both payment methods, assessment fee and the monthly rate for on-going services, are retained for the high-risk pregnant women group; and 2) assessments prior authorized for the MR/DD and the seriously mentally ill populations through September 30, 1995 and completed by October 31, 1995 are reimbursable in accordance with the payment methodology in effect prior to October 1, 1995. Monthly reimbursement rates are assigned for each population group based upon minimum standards for service delivery for each population group. It is anticipated that implementation of this emergency rule will decrease program expenditures by approximately \$1,754,677 for state fiscal year 1996.

Emergency Rule

Effective October 1, 1995 the Department of Health and Hospital, Office of the Secretary, Bureau of Health Services Financing repeals the reimbursement methodology contained in the emergency rule entitled "Optional Targeted Case Management Services" adopted on July 15, 1995 (*Louisiana Register*, Volume 21, Number 8) and adopts the following minimum program standards and reimbursement methodology governing the reimbursement for optional targeted and waiver case management services.

I. General Provisions

A. All reimbursement for optional targeted and waiver case management services shall be made in accordance with all applicable federal and state regulations.

B. The reimbursement rate for optional targeted and waiver case management services is a monthly rate for the provision of mandated monthly minimum services. It is not a capitated rate. Service hours provided in different months that are less than the minimum standard shall not be rolled up in order to meet the minimum standards for service delivery required for reimbursement. Providers shall not bill for failed attempts to make contact with either consumers or collaterals.

C. Billed case management services shall be monitored through the use of provider record review, consumer survey for verification of services provision and quality of service, and verification with collaterals of contacts made on behalf of the recipient. Any situation involving fraud and/or abuse in the provision of case management services will be referred to the SURS Unit for investigation. A subsequent referral will be made to the state Attorney General's Medicaid Fraud Control Unit by the SURS Unit if a criminal investigation is warranted.

D. The following Minimum Program Standards are required for the reimbursement of Case Management Services

1. Seriously Mentally Ill Individuals

a. A minimum of four hours of documented case management services in each month in which services are billed. The four hours must include one face to face

contact with the consumer in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring.

b. Services shall be authorized for a maximum six month time period. All services must be documented on the CAMIS service log and be entered into CAMIS. Weekly submission of CAMIS data is required.

c. The procedure code applicable to case management services for this population is Z0090 and the monthly payment rate is \$223.

2. Mentally Retarded/Developmentally Disabled Individuals

a. A minimum of three hours of documented case management services in each month in which services are billed. The three hours must include one face to face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. Two home visits are required in a six month period. Service provider records MR/DD waiver participants must be monitored by the case management agency on a quarterly basis.

b. Services shall be authorized for a maximum six month time period. All services must be documented on the MRCAMIS service log and be entered into MRCAMIS. Weekly submission of MRCAMIS data is required.

c. The procedure codes applicable to case management services for the MR/DD population is Z0092 for waiver participants and Z0091 for non-waiver participants. The monthly payment rate is \$147 for both groups of the MR/DD population.

3. Developmentally Disabled Infants and Toddlers

a. A minimum of two hours of documented case management services in each month in which services are billed. The two hours must include one face to face contact with the recipient in addition to case management activities such as assessment/service plan development/update, linkage to services and follow-up/monitoring. Two home visits are required in a six month period. Service provider records for MR/DD waiver participants must be monitored by the case management agency on a quarterly basis.

b. Services shall be authorized for a maximum six month time period. All services must be documented on the MRCAMIS service log and be entered into MRCAMIS. Weekly submissions of MRCAMIS data are required.

c. The procedure codes applicable to case management services for the infants and toddler population is Z0094 for MR/DD waiver participants and Z0093 for non-waiver participants. The monthly payment rate is \$133.00 for both groups of children.

4. Persons infected with HIV

a. A minimum of two hours of documented case management services in each month in which services are billed. The two hours must include one face to face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring. A home assessment is a required component of the initial assessment for HIV case management services.

b. The procedure code applicable to case management services for this population is Z0095 and the monthly payment rate is \$99.

5. High Risk Pregnant Women of the Metropolitan New Orleans Area

a. A minimum of one hour of documented case management services in each month in which services are billed. This must include one face to face contact with the recipient in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up monitoring. A home assessment is a required component of the initial assessment for high risk pregnant women case management services.

b. In addition, the following contacts are required: 1) a minimum of monthly verbal contact with the recipient's obstetrician or his staff, 2) weekly verbal contact with the recipient beginning with her 37th week of pregnancy until the delivery, 3) quarterly home visits with the recipient, 4) weekly contact with other service providers and/or informal supports, and 5) a postpartal home visit to be made within 10 to 14 calendar days after delivery focusing on postpartal concerns and infant care.

c. The procedure codes continue to be X0057 for assessment and X0058 for ongoing services and the monthly payment rates are \$130 for the assessment and \$57 for on-going services.

d. Only one assessment service shall be reimbursed for each pregnancy.

6. Case Management Services for participants of the Home Care for the Elderly Waiver Program

a. A minimum of two hours of documented case management services in each month in which services are billed. The two hours must include one face to face contact with the consumer in addition to case management activities such as assessment, service plan development/update, linkage to services and follow-up/monitoring.

b. Service provider records must be monitored by the case management agency on a quarterly basis.

c. The procedure code continues to be Z0088 for this population and the monthly payment rate is \$99.

D. Assessments prior authorized for the MR/DD populations and the seriously mentally ill population through September 30, 1995 and completed by October 31, 1995 are reimbursable under the reimbursement methodology in effect prior to October 1, 1995.

Interested persons may submit written comments to Thomas D. Collins, 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 copy of this rule is available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

9510#007

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Police Charitable Gaming Control Division

Charitable Bingo, Keno, Raffle
(LAC 42:I.1732, 1789, 1791)

The Division of Charitable Gaming Control within the Office of State Police, Department of Public Safety and Corrections, has adopted the following emergency rules as authorized by Acts 1995, Number 557 and 1154, effective August 15, 1995, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B).

Acts 1995, Number 557 provides for the payment of meals and beverages for certain employees or workers of licensed charitable organizations. The division adopted LAC 42:I.1732 to regulate the payment of such meals and beverages and also requires that licensees provide the division certain documentation and information.

The division is amending LAC 42:I.1789.A, repealing the amendment promulgated and published as a rule in the *Louisiana Register* on May 20, 1995 (LR 21:472) because said amendment has been effectively overruled by Acts 1995, Number 1154.

Acts 1995, Number 1154 authorizes licensed charitable organizations playing at the same location to conduct a progressive bingo game. Such organizations may establish a maximum jackpot or cap, and after the cap is reached, continue contributions to the progressive jackpot account in order to accumulate a second or subsequent pot. The division has adopted LAC 42:I.1789.K in order to regulate the continued contributions to the progressive account and to require that licensees provide the division certain documentation and information. Act 1154 also authorizes a new form of bingo known as progressive mega jackpot bingo. The division, charged with responsibility to develop rules to insure compliance with the Act, amended LAC 42:I.1789.A and adopted LAC 42:I.1791.

The emergency rule is necessary to prevent the imminent threat to the public welfare in that charitable gaming revenues have declined significantly and there is a

need to provide means to increase charitable gaming activity and revenue and for related matters. The emergency rule is also necessary to comply with Acts 1995, Number 557 and 1154, effective August 15, 1995.

This emergency rule shall become effective October 3, 1995 and shall remain in effect for the maximum allowable period of 120 days or until the final rule is promulgated, whichever occurs first.

Title 42

LOUISIANA GAMING

Part I. Charitable Bingo, Keno, Raffle

Chapter 17. Charitable Bingo, Keno and Raffle

Subchapter B. Gaming Requirements

§1732. Compensation of Workers

A. Payment of Workers. In accordance with R.S. 33:4861.12(A)(2) and (B)(2), a licensee may pay eligible workers for services actually rendered in assisting in the holding, operating, or conducting of a licensed charitable game of chance. Payments to workers shall not exceed \$5 for each hour actually worked up to a total of six hours. In no event shall payments exceed \$30 per licensed session per paid worker. No more than 10 workers shall be paid for any one licensed session. All workers, paid or unpaid, must be bona fide active members of the licensed organization conducting the game.

1. Payments to workers shall be made once a month for the preceding calendar month.

2. Payment shall only be made by check from the organization's charitable gaming checking account. Each check shall show thereon the gross wages and the amounts deducted for any state or federal tax withholdings.

3. Each organization shall be responsible for withholding and timely submitting all applicable Social Security, state and federal taxes.

B. Payment for Meals and Beverages. In accordance with R.S. 33:4861.12(A)(2) and (B)(2), a licensee may provide meals and beverages to each employee or volunteer worker who is a bona fide active member of the licensee for services actually rendered in the assisting in the holding, operating, or conducting of a licensed charitable game of chance. Expenditures made for such meals and beverages shall not exceed a total value of \$15, including any sales tax, per worker, per licensed session.

1. A licensee who chooses to provide meals and beverages shall provide one reasonable meal and one nonalcoholic beverage only to a worker who actually assists in the holding, operating, or conducting of each called bingo game during a licensed gaming session.

2. The licensee shall ensure that such meals and beverages are provided and eaten only on the licensee's premises during its licensed gaming session.

C. Records Required. Any licensee choosing to pay workers or to provide meals and beverages during a licensed session as provided by this Section shall maintain, for each gaming session, separate documents or written

forms required by the division for each worker paid or provided a meal or beverage.

1. The licensee shall declare the accuracy of its information and the document shall include the following information:

- a. date of the session and the actual time that the meal was received by each worker;
- b. printed name and signature of each worker with a declaration attesting to the fact that the worker has been paid for the number of hours indicated on this document for services actually rendered and/or that the worker has been provided a meal or beverage;
- c. Social Security Number of each worker;
- d. drivers license number of each worker;
- e. statement of the number of hours actually worked during the session by the worker;
- f. printed name and signature of the designated session manager;
- g. name of the licensed organization of which such worker is a bona fide active member;
- h. the actual dollar amount of the meal and beverage provided each worker and the total dollar amount of such meals and beverages provided for all workers at each session.

2. A separate cash register receipt for each worker provided a meal or beverage shall be maintained by each organization. Such receipt shall include the following information:

- a. the date of the receipt and the name of the location providing the meal and beverage;
- b. dollar amount of each meal and beverage provided, including any sales tax;
- c. signature of the workers indicating receipt of a meal and beverage during a licensed session.

3. The receipts shall be totaled for each session and shall be attached to the document as provided in this Subsection for each session. The costs of any such meal or beverage shall be paid for only by check from the charitable gaming account directly to the provider of the meal or beverage. Such payments shall be made for each session in which a meal or beverage is provided.

4. All such documentation and receipts shall be retained for a period of three years as provided by this Part.

D. Each licensee who pays any worker or provides a meal or beverage to any worker as provided in this Section must maintain positive net gaming proceeds for each quarter. Net gaming proceeds shall equal total gross proceeds minus prize payouts and expenses. In the event that a licensee does not maintain positive net gaming proceeds during any quarter, such licensee shall not pay any worker or provide any meal or beverage to any worker as provided in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4861.12 and R.S. 40:1485.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division, LR 21:

Subchapter G. Civil Penalties

§1789. Progressive Bingo

A. Any licensed charitable organization or organizations playing at the same location may deposit a predetermined amount of money before each licensed call bingo session into a special account in order to offer a jackpot prize.

* * *

K. In accordance with R.S. 33:4861.26(E), participating organizations may establish a maximum jackpot or cap only upon written application to and receipt of written permission from the division. Once approved by the division, any subsequent change to the maximum jackpot or cap shall require written approval from the division. Participating organizations may, prior to the progressive bingo jackpot being won, raise but may not lower the maximum jackpot or cap.

1. Such request for written approval shall include at least the following information:

- a. the location where the progressive bingo jackpot game shall be conducted;
- b. the name and license number of each organization participating in the game;
- c. the total amount of funds currently in the Charitable Gaming Progressive Jackpot Account;
- d. the current progressive jackpot in the Charitable Gaming Progressive Jackpot Account;
- e. the current amount of organizations' start up fees in the Charitable Gaming Progressive Jackpot Account;
- f. the requested maximum jackpot or cap and the proposed date in which such maximum jackpot or cap shall be offered as the progressive bingo jackpot prize.

2. In the event that the maximum jackpot or cap established with the division is reached, organizations may continue to make contributions to the Charitable Gaming Progressive Jackpot Account in the amount of \$100 in order to accumulate a second or subsequent jackpot. However, once the maximum jackpot or cap is reached, participating organizations shall not offer any subsequent progressive bingo jackpot prize until such time that the first progressive bingo jackpot prize is won.

3. The dollar amount of the maximum jackpot or cap as established with the division shall be continuously and conspicuously displayed with the current dollar amount of the progressive bingo jackpot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4861.26(E) and R.S. 40:1485.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division LR 20:448 (April 1994), amended LR 21:472 (May 1995), amended LR 21:

§1791. Progressive Mega Jackpot Bingo

A. In accordance with R.S. 33:4861.3 and R.S. 33:4861.26, the governing authority of any municipality or parish shall decide whether a progressive mega jackpot bingo game shall be permitted within the municipality or parish. Such game shall be the aggregate of predetermined contributions made by a group of licensed charitable organizations before each licensed call bingo session deposited into one special account in order to offer a prize for a specific progressive mega jackpot bingo game. For the purpose of conducting a progressive mega jackpot bingo game, such organizations shall:

1. establish links or networks as provided in R.S. 33:4861.26(A)(1) and (G);
2. deposit a predetermined amount of money not to exceed \$100 per participating organization into one special account before each licensed call bingo gaming session. Each contribution shall be in the amount of \$100 and shall be considered part of the total amount of prizes awarded during that session.

B. Participation. Organizations shall participate in only one progressive mega jackpot bingo game at a time and only within the jurisdictional limits approved by the division.

1. Organizations participating in a progressive blackout bingo game as authorized by LAC 42:I.1789 at the same location shall not be allowed to participate in a progressive mega jackpot bingo game. Any organization electing to participate in a progressive mega jackpot bingo game shall first award any progressive blackout bingo prize as authorized by LAC 42:I.1789 prior to entry into any such game.

2. As provided in R.S. 33:4861.26(G), in the event that the population of a single parish exceeds 400,000, only those organizations playing call bingo within that parish shall be able to network or link with other organizations within that parish to offer a prize for a specific progressive mega jackpot bingo game. In the event that the population of a single parish does not exceed 400,000, those organizations playing call bingo within that parish may network or link with other organizations of other parishes as long as the combined population of those parishes networking or linking together does not exceed 400,000.

3. The population of the respective parishes shall be based on the parish population figures as shown by the most recent federal decennial census.

C. Requirements Prior to Start Up. Each location, hall, commercial lessor or noncommercial lessor that has any licensed organization(s) participating in the progressive mega bingo jackpot game shall transmit by facsimile to the division and to the respective governing authority of the parish or municipality or the certified public accountant or management company contracted to oversee the progressive mega jackpot bingo game, if

applicable, the following information and documentation prior to the start up of a progressive mega jackpot bingo game or before any additional organizations are allowed to enter:

1. list of names of licensed charitable organizations participating in the progressive mega jackpot bingo game and the respective gaming location's name and physical address, and the designated organization representative as provided in Subsection I.2 and any subsequent changes;
2. list of all members holding, operating, or conducting or assisting in holding, operating, or conducting any game or games of chance, if different from the list submitted with the most current license application;
3. a copy of the authorized signatory cards for the progressive mega jackpot bingo account and any subsequent changes;
4. a copy of the ordinance from the governing authority of the municipality or parish allowing the progressive mega jackpot bingo game, and the population statistics for the parish or parishes, if applicable;
5. the governing authority of the municipality or parish, or the certified public accountant or management company contracted to oversee the progressive mega jackpot bingo game, if applicable;
6. the proposed starting date and session time of the progressive mega jackpot bingo game.

D. Entry and Withdrawal. Each participating organization shall provide a start up fee in the amount of \$200 at the commencement of or entry into a progressive mega jackpot bingo game for deposit into a "Charitable Gaming Progressive Mega Jackpot Bingo Account." All organizations electing to participate in a progressive mega jackpot bingo game shall contribute an additional \$100 prior to the commencement of a progressive mega jackpot bingo game which shall constitute the progressive mega jackpot bingo prize for the first 24-hour period. This contribution is nonrefundable and shall also be considered part of the total amount of prizes awarded for each organization's first scheduled session of the progressive mega jackpot bingo game.

1. Each participating organization shall submit a check to the designated hall, commercial lessor or noncommercial lessor representative in the amount of \$100 during its licensed four-hour session and prior to the commencement of the organization's first scheduled call bingo game made payable to the "Charitable Gaming Progressive Mega Jackpot Bingo Account." This \$100 contribution is nonrefundable and shall constitute part of the progressive mega jackpot bingo prize for the following day and shall be considered part of the total amount of prizes awarded during that session.

2. If a participating organization voluntarily or involuntarily discontinues participation in the progressive mega jackpot bingo game for any reason, that organization shall not be allowed to re-enter the progressive mega

jackpot bingo game until the current progressive mega jackpot bingo prize is won.

3. The \$200 start-up fee deposit shall remain in the account until the progressive mega jackpot bingo game is discontinued by the organizations and shall be refundable upon discontinuance of the progressive mega jackpot bingo blackout game or to any single organization withdrawing, whether voluntarily or involuntarily, from the progressive mega jackpot bingo game within three calendar days of withdrawal.

4. Except as otherwise provided in Paragraph 2 of this Subsection, organizations shall be allowed entry into the progressive mega jackpot bingo game at any time before the progressive mega jackpot bingo blackout prize is won.

5. All monies accumulated in the progressive mega jackpot bingo account for a game shall be given away if all participating organizations in that game withdraw, voluntarily or involuntarily, and discontinue that progressive mega jackpot bingo game.

E. Structure of Game. The progressive mega jackpot bingo game shall be conducted in conjunction with the organizations' regular blackout bingo games and the structure of such game shall be as follows:

1. Only separate additional 3 on 1 up sealed vertical bingo sheets shall be sold at \$2 per sheet for the play of only the progressive mega jackpot bingo game. Purchase of the 3 on 1 up sealed vertical bingo sheet shall afford patrons a chance to win the progressive mega jackpot bingo game and the regular blackout bingo prize.

2. Only those patrons who have purchased a minimum buy-in package for the organization's regular session games shall be allowed to purchase separate 3 on 1 up sealed vertical bingo sheets for the progressive mega jackpot bingo game at that session. The minimum buy-in package shall not contain sheets of cards that entitle a patron to win the progressive mega jackpot bingo prize, but the purchase of any such package shall afford a patron the opportunity to win only the respective organization's regular blackout bingo prize.

3. Any card or sheet that is altered from the original manufacturer's cut, collation, or print shall be invalid.

4. No progressive mega jackpot bingo game 3 on 1 up sealed vertical bingo sheets shall be sold after the first ball is called for the progressive mega jackpot bingo game. Such progressive mega jackpot bingo sheets shall:

a. be purchased by the organization on a separate invoice from a licensed distributor;

b. have an assigned fixed value for each participating organization approved by the division in writing prior to start up of or entry into any progressive mega jackpot bingo game and shall only be good for the session date stamped;

c. be stamped with the words "PROGRESSIVE MEGA JACKPOT BINGO GAME", the organizations' name, license

number, and session date to be valid and shall not be purchased as part of a buy-in package.

5. The progressive mega jackpot bingo game shall be completed as the last called bingo game of the licensed session.

F. Amount of Prizes Awarded. A progressive mega jackpot bingo account consists of all contributions made by participating organizations excluding the \$200 start up fee as provided in Subsection D of this Section during the progressive mega jackpot bingo game.

1. Except as otherwise provided in Subsection D of this Section, the dollar amount of the progressive mega jackpot bingo game shall be the accumulated dollar amount of all contributions deposited or due to be deposited into the progressive mega jackpot bingo account by all participating organizations in a progressive mega jackpot bingo game for the period ending at 12 a.m. (midnight) of the previous calendar day.

2. The dollar amount of any progressive mega jackpot bingo game shall not exceed the sum of \$50,000. Participating organizations shall not cap the progressive mega jackpot bingo prize in an amount less than the limit of \$50,000. Once the limit in the amount of \$50,000 is reached for any progressive mega jackpot bingo game, participating organizations shall continue to make contributions to the progressive mega jackpot bingo account to accumulate a second or subsequent jackpot. However, in the event that the limit in the amount of \$50,000 is reached, organizations shall not offer any subsequent progressive mega jackpot bingo prize until such time that the progressive mega jackpot prize limit in the amount of \$50,000 is won. Only one progressive mega jackpot prize of participating organizations shall be awarded during any 24-hour period as provided in Subsection G of this Section.

G. Time of Game. The organizations' licensed session starting time and date shall be the basis for determining the winner(s) to be paid during a 24-hour period. For purposes of determining the time of a progressive mega jackpot bingo prize winner(s), a 24-hour period shall include all licensed sessions of participating organizations licensed to commence beginning on or after 12:01 a.m. and ending 24 hours later on or before 12 a.m. (midnight).

H. Winner(s). A progressive mega jackpot bingo game shall be won when any player(s) achieves a blackout in 48 balls called or less only on the 3 on 1 up sealed vertical bingo sheet and only during the 24-hour period described in Subsection G of this Section. Each face on any 3 on 1 up vertical bingo sheet shall be considered when determining the number of winners.

1. In the event that a patron achieves a blackout in 47 balls called or less on a sheet of cards from a minimum buy-in package, that patron shall win only the regular blackout bingo prize of the respective organization and that regular blackout bingo game shall end. If such a blackout

is achieved in 47 balls called or less, play shall resume until the forty-eighth ball is called, and once called, the progressive mega jackpot bingo game shall end. If no blackout is achieved, the game shall continue until a consolation prize is won as provided in Paragraph 5 of this Subsection.

2. In the event a patron achieves a blackout on sheets of cards from a minimum buy-in package on the same number of balls called as a patron who achieves a blackout on a 3 on 1 up sealed vertical bingo sheet, the regular blackout bingo prize of the respective organization shall be divided equally between all verified winners of the progressive mega jackpot bingo game at that session. The progressive mega jackpot bingo game shall be won only by a patron(s) who achieves a blackout on the 3 on 1 up sealed vertical bingo sheet as provided in this Subsection.

3. In the event there is more than one winner of the progressive mega jackpot bingo game during the 24-hour period as provided in Subsection G of this Section, the progressive mega jackpot bingo prize shall be divided equally between all verified winners of that progressive mega jackpot bingo game.

4. A patron who achieves a blackout on a 3 on 1 up sealed vertical bingo sheet in fewer balls called than a patron who achieves a blackout on a 3 on 1 up sealed vertical bingo sheet at another licensed session of a participating organization shall share the progressive mega jackpot bingo prize equally with all verified winners during the 24-hour period as provided in Subsection G of this Section.

5. If no blackout is achieved in 48 balls called or less, the organization's progressive mega jackpot bingo game shall continue until a consolation prize is won. The consolation prize shall be the respective organization's regular blackout bingo prize and shall constitute part of the total amount of prizes awarded during that called bingo session.

6. A ball shall not be considered called unless it has been announced by the caller.

7. The division may, upon written request and adequate justification, issue a written approval allowing participating organizations in a progressive mega jackpot bingo game to increase the number of balls called to achieve a progressive mega jackpot bingo prize winner. Such request shall be signed by all bingo chairpersons of each participating organization.

I. **Noninterest Bearing Account.** A separate noninterest bearing checking account shall be opened by the participating organizations for the progressive mega jackpot bingo game.

1. The account shall be in the name of "Charitable Gaming Progressive Mega Jackpot Bingo Account" which shall be imprinted on all checks. Checks from this account shall require two signatures.

2. Each location, hall, commercial lessor, or non-commercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall designate in writing and submit to the division a representative who shall make deposits and obtain bank receipts of all monies contributed and deposited into the progressive mega jackpot bingo game account before the close of bank business on the next banking day.

3. At least two designated representatives of each participating organization shall be authorized signatories on the account.

4. Monthly bank statements for the progressive mega jackpot bingo game account shall be mailed directly to the governing authority of the municipality or parish, or the contracted certified public accountant or management company overseeing the progressive mega jackpot bingo game, if applicable.

5. All banking fees and other costs related to the progressive mega jackpot bingo game shall be borne as provided in Subsection N of this Section.

J. The dollar amount of the progressive mega jackpot bingo game shall be continuously and conspicuously displayed by participating organizations during call bingo sessions conducted only by participating organizations at least within the location and within view of all patrons purchasing progressive mega jackpot bingo sheets.

K. All revenues related to the progressive mega jackpot bingo game, and all checks written to and issued from the "Charitable Gaming Progressive Mega Jackpot Bingo Account" shall be reported by each participating organization in a manner acceptable to the division, the governing authority of the municipality or parish, and the contracted certified public accountant or management company overseeing the progressive mega jackpot bingo game, if applicable.

L. Any licensed charitable organizations playing bingo within the state who participates in a progressive mega jackpot bingo game shall contract a certified public accountant or management company selected by the participating organizations and who shall be approved by the division to oversee the progressive mega jackpot bingo game and account in the event that the governing authority of the municipality or parish does not have a regulatory body to oversee the game. The governing authority of the municipality or parish, or if applicable, the contracted certified public accountant or management company approved by the division shall be responsible for, but not limited to the following:

1. reconciling bank statements monthly;
2. ensuring that each \$100 contribution for each session played has been properly deposited in a timely manner, as described in Subsection R of this Section;
3. ensuring that all banking fees and other related costs as provided in Subsection N of this Section are recovered from the proper parties;

4. ensuring that checks written on the account are disbursed only to verified progressive mega jackpot bingo blackout prize winners, to organizations requesting refunds of the \$200 start up fee due to voluntary or involuntary withdrawal from the progressive mega jackpot bingo game as provided in Subsection D of this Section, or for those purposes as may be necessary, if approved in writing by the division;

5. immediately notifying by facsimile all organizations participating in the progressive mega jackpot bingo game that the \$50,000 limit has been reached.

M. Equipment. Each location, hall, commercial lessor or noncommercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall have at least the following equipment on site and operational at all times.

1. Facsimile machine installation at each such location capable of transmitting to the division, the governing authority of the parish or municipality, or the certified public accountant or management company contracted to oversee the progressive mega jackpot bingo game, if applicable.

2. A minimum of at least one camera and one monitor at each such location that is capable of televising the first and the next ball to be called and the winning card(s) of the progressive mega jackpot bingo game(s) to the patrons at that session.

3. A video cassette recorder at each such location capable of monitoring and recording any winning card and all bingo balls as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game.

4. A minimum of at least two bingo boards at each such location capable of displaying the bingo balls called for the regular games, the blackout game, the bonanza games, and the progressive mega jackpot bingo game.

5. A master verification checkbook or similar verification device at each such location depicting the faces of the bingo cards printed by the manufacturer of the bingo cards being used for the progressive mega jackpot bingo game.

N. Costs. Each location, hall, commercial lessor or non-commercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall bear all costs, related to, but not limited to, the following:

1. facsimile machine installation at each such location capable of transmitting the required data and information to the division, the governing authority of the parish or municipality, or the certified public accountant or management company contracted to oversee the progressive mega jackpot bingo game for the parish or parishes, if applicable.

2. banking fees and other related costs, accounting fees of the certified public accountant or management company contracted to oversee all deposits, disbursements, and reporting and tax requirements of the progressive mega jackpot bingo game account(s), if applicable. These costs shall be shared by each such location proportionate to the number of sessions held at each site.

3. attorney fees as may be required for any progressive mega jackpot bingo game. These costs shall be shared by each such location proportionate to the number of sessions held at each site.

4. a minimum of at least one camera and one monitor at each such location that is capable of televising the first and next ball to be called and the winning card(s) of the progressive mega jackpot bingo game to patrons at that session.

5. a video cassette recorder capable of monitoring and recording any winning card and all bingo balls as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game.

6. a minimum of at least two bingo boards capable of displaying the bingo balls called for the regular games, the blackout game, the bonanza games and the progressive mega jackpot bingo game.

7. a master verification checkbook or similar verification device at each such location depicting the faces of the bingo cards printed by the manufacturer of the bingo cards being used for the progressive mega jackpot bingo game.

O. Organization requirements and verification procedures. All licensed charitable organizations participating in a progressive mega jackpot bingo game shall use the following procedures in verifying the play and winner(s) of the progressive mega jackpot bingo game.

1. Use at each of its games the required camera, monitor, and video cassette recorder at its gaming location to televise and record the following:

a. the caller announcing the organization's name, license number, session date and time prior to calling the first ball of the progressive mega jackpot bingo game;

b. all bingo balls as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game;

c. the winning card(s) of the progressive mega jackpot bingo game and to display on the monitor such card(s) to the patrons at that session.

2. Use at each of its sessions at least two bingo boards for its progressive mega jackpot bingo game.

3. Ensure that all bingo balls are available and have not been modified in any way from their original manufacture before placing them in play. Bingo balls shall be inspected by at least the hall manager, session manager, bingo manager, caller, and at least two bingo patrons

before placing them in play for the progressive mega jackpot bingo game.

4. Ensure that any division, parish, or municipal representative, any bona fide active member of the participating organizations, any participating hall owner or representative(s), and any participating patron present has the right and ample opportunity to view and inspect any ball or balls for the progressive mega jackpot bingo game before placing them in play and after any winner has been achieved.

5. The caller shall announce:

a. the organization's name, license number, session date and time, and record this information on the video cassette prior to calling the first ball of the progressive mega jackpot bingo game.

b. the dollar amount of the progressive mega jackpot bingo prize prior to the start of each gaming session.

c. that the progressive mega jackpot bingo game shall commence at least five minutes before the first ball is called for the progressive mega jackpot bingo game.

d. when the forty-eighth ball is called and ask if there are any winners.

e. any progressive mega jackpot bingo game winners from another organization's licensed session for the 24-hour period as provided in Subsection H of this Section prior to the first called bingo game of a session or upon receipt of a the facsimile as provided in Paragraph 13 of this Subsection.

f. in order to be eligible to win the progressive mega jackpot bingo game and to collect the prize, one must possess two of the four types of personal identification as provided in Subsection P of this Section.

6. Reduce to writing the sequence that the bingo balls are actually called for the progressive mega jackpot bingo game. Such record shall be in ink and shall become part of the session records and shall be maintained for a period of three years as required by this Part.

7. In the event that there is a progressive mega jackpot bingo game winner as provided in Subsection H of this Section, the video cassette tape shall immediately be rendered incapable of further recording, and secured by the session manager of that organization.

a. The organization shall verify that the winning progressive mega jackpot bingo card(s) compares to the actual balls called. Such verification shall be made by at least the session manager, bingo manager, and the caller.

b. The organization shall use at each of its games the master verification checkbook or similar verification device at its gaming location to compare to the winning card(s) of the progressive mega jackpot bingo game to ensure that such winning card(s) is a valid winner and has not been altered. Such verification shall be made by at least the session manager, bingo manager, and the caller.

c. The organization shall forward such cassette to the Division or to the governing authority of the municipality or parish within three (3) business days where it shall be reviewed and retained for a period of one (1) year.

8. In the event that a licensed bingo session is not held by any participating organization, such organization shall transmit a facsimile immediately to the division and the governing parish or municipal regulatory body or the contracted certified public accountant or management company, if applicable, stating that a licensed session was not held and the reason why the session was not held. This facsimile shall be signed by the organization's member-in-charge.

9. Ensure that the contracted certified public account or management company, if applicable, receives a copy of the participating organization's licensed scheduled sessions prior to beginning the progressive mega jackpot bingo game and any subsequent changes to said license.

10. Vouchers. All organizations participating in a progressive mega jackpot bingo game shall utilize the same type of carbon copy voucher when awarding progressive mega jackpot bingo prize winners. All required information on the voucher(s) shall be accurately completed and properly signed immediately after the winning progressive mega jackpot bingo card(s) has been verified as provided by this Subsection. The voucher(s) shall contain, but shall not be limited to, the following information:

a. organization name, license number, session date, and session starting time;

b. printed names and signatures of the session manager, bingo manager, and caller;

c. name of the hall;

d. number of winners for the session;

e. number of balls called for the winning card;

f. printed name, signature, current address, social security number, and telephone number of the winner.

11. Any winner(s) of the progressive mega jackpot bingo game shall be given the original voucher, and the carbon copy voucher(s) shall be retained along with the winning 3 on 1 up sealed vertical bingo sheet(s) by the organization awarding the progressive mega jackpot bingo prize. The progressive mega jackpot bingo winner(s) printed name(s), signature(s) and social security number(s) shall be affixed to the back of the winning card(s) in order to be valid.

12. Any participating organization(s) which has a progressive mega jackpot bingo winner(s) at its licensed session shall immediately transmit by facsimile the completed voucher(s), the session record as provided in Paragraph 6 of this Subsection and the winning card(s) of the progressive mega jackpot bingo game to the following:

a. the division;

b. governing parish or municipal regulatory body, if applicable;

c. the contracted certified public accountant or management company approved by the division for that progressive mega jackpot bingo game, if applicable;

d. all locations, halls, commercial lessors and non-commercial lessors whose organizations participate in the progressive mega jackpot bingo game.

P. Payment of the Winner(s). The original voucher(s), the carbon copy voucher(s) and the original winning 3 on 1 up sealed vertical bingo sheet(s) shall be presented to the governing parish or municipal regulatory body or the contracted certified public accountant(s) or management company, if applicable, within three working days for verification. No winner(s) of the progressive mega jackpot bingo prize shall be certified and no winner shall be paid until verified by the governing parish or municipal regulatory body or the contracted certified public accountant or management company, if applicable. Any winner of the progressive mega jackpot bingo game shall be paid only by check from the charitable gaming progressive mega jackpot bingo account. No winner(s) of the progressive mega jackpot bingo prize shall be paid unless two of the following types of personal identification are presented by the winner(s) to the governing parish or municipal regulatory body or the certified public accountant or management company overseeing the progressive mega jackpot bingo account, if applicable:

1. Social Security card;
2. valid drivers' license;
3. voters' registration card;
4. birth certificate.

Q. Any organization awarding a progressive mega jackpot bingo prize shall be responsible for all local, parish, state, and federal tax withholding and reporting requirements.

R. Each location, hall, commercial lessor, or non-commercial lessor that has any licensed organization participating in the progressive mega jackpot bingo game shall:

1. Prepare a detailed deposit slip(s) for all participating organizations' contributions to the progressive mega jackpot bingo game to be deposited from the previous calendar day indicating each licensed organization's name, license number, and the amount to be deposited.
2. Deposit all participating organizations' contributions to the progressive mega jackpot bingo game from the previous calendar day(s) into the progressive mega jackpot bingo account before close of bank business on the next banking day, and maintain a detailed log of such deposits.
3. Transmit daily by facsimile the detailed deposit slip and proof of deposit as provided in Paragraphs 1 and 2 of this Subsection to the governing parish or municipality

regulatory body or the contracted certified public accountant or management company overseeing the progressive mega jackpot bingo account for that game, if applicable.

4. Immediately and conspicuously display at each participating progressive mega jackpot bingo game site for a period of one week after the awarding of the progressive mega jackpot bingo game prize at least the following information concerning the progressive mega jackpot bingo winner:

- a. the location, hall, commercial hall or noncommercial hall where the progressive mega jackpot bingo prize was won;
- b. date and time that the progressive mega jackpot bingo was prize won;
- c. the organizations' name, license number, and session starting time from which the progressive mega jackpot bingo prize was won;
- d. the amount of the progressive mega jackpot bingo prize awarded;
- e. the number of winners for that progressive mega jackpot bingo prize.

5. Ensure that all bingo equipment, including but not limited to, the required camera, monitor, video cassette recorder, bingo boards, and the verification device is properly maintained and is functional before and during each licensed session.

6. Ensure that all bingo balls are available and have not been modified in any way from their original manufacture before placing them in play.

7. Ensure that the progressive mega jackpot bingo prize amount is continuously posted and conspicuously displayed prior to and during the entire progressive mega jackpot bingo game of each respective organization.

8. Ensure that a copy of the progressive mega jackpot bingo rules are continuously posted and conspicuously displayed for all patrons to review.

9. Ensure that in the case of a hall closure that the participating organizations have the opportunity to hold a final session to award the progressive mega jackpot bingo prize as provided in Subsection D of this Section.

S. The following persons shall be strictly prohibited from playing for the progressive mega jackpot bingo prize.

1. No charitable gaming employee or volunteer shall play for the progressive mega jackpot bingo prize while on duty at the gaming site. For purposes of this Section, a gaming employee or volunteer is any member of the licensed organization holding, operating or conducting any game or games of chance or any member of another licensed organization assisting in the holding, operating or conducting of any game or games of chance. A gaming employee or volunteer working any part of a session or taking a temporary break shall be considered on duty for that gaming session. A charitable gaming employee or volunteer may play bingo, while off duty, at another

gaming site other than the site where their organization(s) conduct(s) a licensed gaming session.

2. No location, hall, commercial lessor or non-commercial lessor owners, or its shareholders, directors, employees or agents shall play the progressive mega jackpot bingo game at their licensed location.

3. No licensed distributor owners, or its shareholders, directors or agents shall play the progressive mega jackpot bingo game at any site.

4. No licensed manufacturer owners, or its shareholders, directors or agents shall play the progressive mega jackpot bingo game at any site.

5. No licensed private casino contractor owners, or its shareholders, directors or agents shall play the progressive mega jackpot bingo game at any site.

6. No employee who regulates charitable games of chance on a state, parish or local level shall play the progressive mega jackpot bingo game at any site.

T. Players of the progressive mega jackpot bingo game shall not be allowed to play bingo cards for any person enumerated in Subsection S of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4861.26 and R.S. 40:1485.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division, LR 21:

Colonel Paul W. Fontenot
Superintendent

9510#005

DECLARATION OF EMERGENCY

Department of Social Services
Office of Community Services

Multiethnic Placement (LAC 67:V.401)

The Department of Social Services, Office of Community Services have exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following rule in the adoption and foster care programs. Emergency rulemaking is necessary as is mandated by Public Law 103-382, Part E-Multiethnic Placement, Sections 551 - 555 passed by the Congress of the United States October 20, 1994 becomes effective October 21, 1995.

The effective date of this emergency rule is October 21, 1995 and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is shortest.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 1. General Administration

Chapter 4. Placements

§401. Multiethnic Placement

A. OCS and its subrecipients involved in adoption or foster care placements may not:

1. categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

2. delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color or national origin of the adoptive or foster parent, or the child, involved.

B. OCS and its subrecipients involved in adoption or foster care placements may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child.

C. The term *placement decision* means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of OCS and its subrecipients, to seek the termination of birth parents rights or otherwise make a child legally available for adoptive placement.

D. Any individual who is aggrieved by an action in violation of Subection A of this Section taken by OCS or its subrecipients shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

E. Nothing in this rule shall be construed to affect the application of the Indian Child Welfare Act of 1978, 25 USC 1901 et seq.

AUTHORITY NOTE: Promulgated in accordance with P. L. 103-382, Part E - Multiethnic Placement, Sections 551- 555.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:

Gloria Bryant-Banks
Secretary

9510#022

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Paternity Establishment (LAC 67:III.Chapter 27)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt

the following rule in Support Enforcement Services (SES), the child support enforcement program, effective October 1, 1995. This rule shall remain in effect for a period of 120 days.

In order to improve program effectiveness and in accordance with 45 CFR Parts 301-305, R.S. 40:46.1 requires that all hospitals in the state which provide birthing services shall have a program for the voluntary acknowledgment of paternity. Acknowledgments provided to the state registrar shall be referred to SES. This rule establishes the role of SES in this process.

Pursuant to 45 CFR 303.5 an emergency rule is required to implement Support Enforcement's participation and function as relates to paternity acknowledgment since the entire program is federally mandated to be operational by the first calendar quarter following the close of the latest legislative session and is subject to audit and penalty pursuant to 45 CFR 305.

Subpart 4, Section 2705 is being renumbered to accommodate the incorporation of this rule.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 27. General Program Administration

Subchapter A. Establishment of Paternity

§2703. Hospital-based Paternity Acknowledgment Program

The agency will provide all birthing hospitals in the state with written materials concerning paternity establishment, written descriptions of the rights and responsibilities of acknowledging paternity, and the forms necessary to voluntarily acknowledge such, as well as training necessary to operate the program. The agency will receive acknowledgments generated by the program and maintain a statewide database. Information from the database will be used in child support matters subject to the jurisdiction of Support Enforcement Services.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR

302.70(a)(5), 303.4(f), 303.5(g) and (h), R.S. 40:46.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:

Subchapter B. Notice of Collection of Assigned Support

§2705. Annual Notice of Collection

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.54.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 21:

Gloria Bryant-Banks
Secretary

9510#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Canada Goose Season

(Editors Note: An emergency rule published on pages 921-922 of the September 20, 1995, Louisiana Register incorrectly listed the Canada Goose Season Dates.)

The Canada Goose season dates are January 23 through January 31, 1996.

Joe L. Herring
Secretary

9510#013

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

King Mackerel Season Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317 which provides that the secretary of the department may declare a closed season when it is in the best interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective midnight, September 22, 1995, the commercial fishery for king mackerel in Louisiana waters will close and remain closed until 12:01 a.m., July 1, 1996.

The secretary has been notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service that the commercial quota for king mackerel in the western Gulf has been reached, and the season closure is necessary to prevent overfishing of this species.

Joe L. Herring
Secretary

9510#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Potentially Dangerous Wild Quadruped Possession (LAC 76:V.107, 115)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission does hereby adopt an emergency rule governing possession of certain wild quadrupeds and to amend LAC 76:V.107, the prior commission rule regulating possession of those live wild quadrupeds, by repealing the paragraphs pertaining to them.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§107. Game Breeder's License

A-B.8.c. ...

9. * Elk (license will not be issued). Single animal: 5,000 square feet paddock or corral; increase corral size by 50 percent for each additional animal; barn, shaded or protected area attached to or adjoining corral fence, 9 gauge chain link or woven wire; 8 feet high. Welded wire is not acceptable.

Regulation of elk is under jurisdiction of the Louisiana Department of Agriculture and Forestry by Act 41 of the 1992 Legislative Session.

* *Note:* Valid game breeder's license holders for these species legally possessed prior to October 1, 1988, will be "grandfathered" and renewed annually until existing captive animals expire, or are legally transferred out of state or to a suitable public facility. No additional animals may be required. This position by the department is necessary due to the ability of these animals to cause serious physical injury to the owner or other innocent bystanders and/or their potential to transmit disease to wildlife or livestock. Qualified educational institutions, municipal zoos or scientific organizations will be exempted to this provision on a case-by-case basis.

10. Other Game Quadrupeds and Birds. Other game quadrupeds and birds endemic to North America may not be kept without approval of the Wildlife Division. Pen specifications for animals not listed will be developed by the Wildlife Division as needed.

C. General Requirements

C.1 - C.5 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:171.

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

14:631 (September 1988), amended LR 18:1134 (October 1992), LR 21:

§115. Possession of Potentially Dangerous Wild Quadrupeds

A. This commission finds that possession of certain potentially dangerous quadrupeds poses significant hazards to public safety and health, is detrimental to the welfare of the animals, and may have negative impacts on conservation and recovery of some threatened and endangered species.

1. The size and strength of such animals in concert with their natural and unpredictable predatory nature can result in severe injury or death when an attack upon a human occurs. Often such attacks are unprovoked and a person other than the owner, often a child, is the victim. Furthermore, there is no approved rabies vaccine for such animals, so even minor scratches and injuries inflicted upon humans or other animals could be deadly.

2. Responsible possession of these potentially dangerous wild quadrupeds necessitates that they be confined in secure facilities. Prolonged confinement is by its nature stressful to these animals and proper long-term care by experienced persons is essential to the health and welfare of these animals and to society.

3. Certain of these animals are listed as endangered species and others are so similar in appearance to endangered subspecies as to make practical distinction difficult. This similarity of appearance may provide a means to market illegally obtained endangered animals and can limit the effective enforcement of endangered species laws.

B. This commission regulation prohibits possession of certain wild quadruped as follows.

C. No person shall possess within the state of Louisiana, any of the following species or its subspecies of live wild quadrupeds, domesticated or otherwise:

1. Cougar or mountain lion (*Felis concolor*)
2. Black bear (*Ursus americanus*)
3. Grizzly bear (*Ursus arctos*)
4. Polar bear (*Ursus maritimus*)
5. Red wolf (*Canis rufus*)
6. Gray wolf (*Canis lupus*)

D. Valid game breeder license holders for these species legally possessed prior to October 1, 1988, will be "grandfathered" and renewed annually until existing captive animals expire, or are legally transferred out of state, or are transferred to a suitable public facility. No additional animals may be acquired.

E. Qualified educational institutions, zoos, and scientific organization may be exempted from this prohibition on a case-by-case basis upon written application to the secretary. Minimum pen requirements for exempted educational institutions, zoos and scientific organization are as follows:

1. Bears

- a. single animal - 25 feet long x 12 feet wide x 10 feet high, covered roof;
- b. pair - 30 feet long x 15 feet wide x 10 feet high, covered roof;
- c. materials - chain link 9 gauge minimum;
- d. safety perimeter rail;
- e. pool - 6 feet x 4 feet x 18 inches deep with facilities for spraying or wetting bear(s);

2. Wolf

- a. 15 feet long x 8 feet wide x 6 feet high per animal, covered roof;
- b. secluded den area 4 feet x 4 feet for each animal;
- c. materials - chain link wire or equivalent;
- d. safety perimeter rail;

3. Cougar, Mountain Lion

- a. single animal - 10 feet long x 8 feet wide x 8 feet high, covered roof;

- b. pair - 15 feet long x 8 feet wide x 8 feet high, covered roof;
- c. materials - chain link 9 gauge minimum;
- d. safety perimeter rail;
- e. claw log;
- f. shelf - 24 inch wide x 8 feet long, 40 inches off floor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, 56:171, and 56:1904(F).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:

Glynn Carver
Vice-Chairman

9510#012

Rules

RULE

**Department of Agriculture and Forestry
Office of Forestry
and
Department of Revenue and Taxation
Tax Commission**

**Timber Stumpage Values
(LAC 7:XXXIX.Chapter 201)**

(Editor's Note: The following rule which appeared on page 930 of the September 20, 1995 Louisiana Register is being republished to correct an error.)

In accordance with provisions of the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry, and the Department of Revenue and Taxation hereby amends rules regarding the value of timber stumpage for calendar year 1995.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 201. Timber Stumpage

§20101. Stumpage Values

The Louisiana Forestry Commission, and the Tax Commission, as required by R.S. 47:633, adopted the following timber stumpage values based on current average stumpage market values to be used for severance ax computations for 1995:

1. Pine trees and timber	\$293.44/MBF	\$36.68/ton
2. Hardwood trees and timber	\$181.36/MBF	\$19.09/ton
3. Pine Chip and Saw	\$67.82/cord	\$25.12/ton
4. Pine pulpwood	\$24.35/cord	\$ 9.02/ton
5. Hardwood pulpwood	\$ 10.40/cord	\$ 3.65/ton

AUTHORITY NOTE: Promulgated in accordance with R.S. 1:3.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR

17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), repromulgated LR 21: (October 1995).

Bob Odom, Commissioner
Agriculture and Forestry

Billy Weaver, Chairman
Forestry Commission

Malcolm B. Price, Chairman
Tax Commission

9510#023

RULE

**Department of Economic Development
Office of Financial Institutions**

**Savings Bank Conversions
(LAC 10:I.201 and LAC 10:VII.301-343)**

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1131 et seq., particularly the rulemaking powers authorized by R.S. 6:1141, the Commissioner of Financial Institutions hereby amends and adopts a rule published as a notice of intent in LR 20:1149 (October 20, 1994), to provide for the regulation and supervision of conversions of Louisiana state-chartered savings banks from mutual to stock form.

There are four technical revisions to the text of the rule as originally proposed on October 20, 1994. The first allows a converting institution the option of providing for a local depositor preference in the purchase of conversion stock in the subscription offering. This provision was mandatory in the proposed rule. The second amendment deletes the reference to "associates" in the rule provision stating that "insiders" are subject to a one year holding period for any purchased stock in the subscription offering. Therefore associates, as that term is defined in the rule, are not considered to be insiders and are not subject to the one year holding period for purchased conversion stock. The third amendment changes the time for shareholder approval of any stock option and management or employee stock option plan included in the plan of conversion from the first annual meeting following the conversion to no earlier than six months following approval of the plan of conversion. Thus, a second shareholder approval is necessary for the implementation of such benefit plans. The fourth amendment provides that any conversion stock options provided for in the plan of conversion must be granted at not less than the current market price of the stock at the time of the grant.

The final rule imposes several specific requirements

upon state-chartered savings banks that apply to convert from a mutual to a stock form of ownership. This rule:

1. requires the submission of a full appraisal report which would assign a value to the converting institution. This report determines the size of the stock offering needed to fully convert the savings bank to stock form;

2. establishes a priority system for variously defined groups or constituencies for purchasing the institution's stock subscriptions;

3. sets an eligibility date for determining which depositors receive rights to participate in the subscription offering;

4. allows the converting institution, at its option, to give preference in purchasing shares in the subscription offering to those eligible depositors and others forming the reorganizing institution's "local community;"

5. limits the amount of stock subscriptions an individual or group may purchase in the offering to a certain percentage of the total offering size. Provisions 2-5 allow for as wide a distribution of the available stock subscriptions as possible within a certain geographically defined area. Additionally, since local residents may be given preference in purchasing the stock subscriptions over nonlocal individuals, ownership and control of the institution could remain local and the amount of nonlocal ownership by professional investors could be restricted;

6. requires a depositor vote on all savings bank conversions and prohibit management's use of previously executed proxies to satisfy depositor voting requirements;

7. requires shareholder approval of any stock option or management recognition plans included in the institution's plan of conversion. Provisions 6-7 assure depositors of a voice in the future of the institution and allow them to control the amount of benefits awarded to the converting institution's officers and directors;

8. requires the price of any stock option grant to be not less than the present market price of the stock when such grant is made;

9. prohibits funding of any management recognition plan from the proceeds of the conversion; and

10. requires the submission of a detailed business plan which sets forth how the capital raised in the subscription offering would be utilized and that this capital would be used for legitimate business purposes and not endanger the continued safe and sound operation of the institution.

Additionally, this rule amends this office's fees and assessments rule, LAC 10:I.201 as published in LR 19:1546-1548 (December 20, 1993), by providing for a \$1,500 fee to convert a mutual savings bank to stock form.

A complete text of this rule is available at the Office of the State Register, 1051 North Third Street, Baton Rouge LA 70802, telephone (504)342-5015.

Larry L. Murray
Commissioner

9510#045

RULE

Department of Economic Development Office of Financial Institutions

Savings Bank Mutual Holding Company Reorganizations (LAC 10:VII.Chapter 5)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1131 et seq., particularly the rulemaking powers authorized by R.S. 6:1141, the Commissioner of Financial Institutions hereby amends and adopts a rule, published as a notice of intent in LR 20:1300 (November 20, 1994) to provide for the regulation and supervision of reorganizations of Louisiana state-chartered savings banks from mutual to mutual holding company with a stock savings bank subsidiary form.

There are three technical revisions to the text of the rule as originally proposed on November 20, 1994. The first is a change in the period within which interested persons may submit written comments on a proposed reorganization from 10 business days after filing with this office to 20 calendar days from the date of filing with the possibility of a 20 day extension. The second allows a reorganizing institution the option including a local depositor preference in its plan of reorganization. This was a mandatory provision in the notice. The third amendment provides that any conversion stock options provided for in the plan of conversion must be granted at not less than the current market price of the stock at the time of the grant.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part VII. Savings Banks

Chapter 5. Mutual Holding Company Reorganizations

§ 501. Scope

This rule is enacted pursuant to the Louisiana Savings Bank Act of 1990. Except as the commissioner may otherwise determine, the provisions of this rule shall exclusively govern the reorganization of Louisiana state-chartered mutual savings banks into mutual holding companies with one or more subsidiary stock savings banks and the issuance of stock by such savings banks. The prior written approval of the commissioner is required for such actions. The commissioner may grant a waiver in writing from any requirement of this rule for good cause shown and may adopt policies and procedures interpreting and implementing this rule. This rule supersedes all inconsistent articles of incorporation and bylaws of state-chartered mutual savings banks reorganizing into mutual holding companies.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§503. Definitions

A. For purposes of this rule, the following terms shall have the meanings set forth in section 303 of the Savings Bank Conversions Rule, LR 20:1149 (October 20, 1994), amended LR 21: (October 20, 1995): acting in concert; affiliate; associate; commissioner; control; person; proxy; stock; tax-qualified employee stock benefit plan; and non-tax-qualified employee stock benefit plan.

B. For purposes of this rule, the following terms shall have the following meanings:

Acquiree Savings Bank—any savings bank other than a resulting savings bank, that:

a. is acquired by a mutual holding company as part of, and concurrently with, a mutual holding company reorganization; and

b. is in the mutual form immediately prior to the acquisition.

Conversion Rule—refers to the Savings Bank Conversions Rule promulgated by the Louisiana Office of Financial Institutions in LR 20:1149 (October 20, 1994), amended LR 21: (October 20, 1995). For purposes of this rule, the term "conversion" as it appears in the Conversion Rule shall be deemed to refer to the "reorganization" or the "stock issuance plan", as appropriate.

Member—any person who qualifies as a member of the savings bank or mutual holding company at issue, pursuant to the institution's articles and bylaws.

Mutual Holding Company—a savings bank mutual holding company, as further defined in LSA-R.S. 6:1151.

Parent—company that controls another company, either directly or indirectly, through one or more subsidiaries.

Reorganization Notice—a notice of a proposed mutual holding company reorganization that is in the form and contains the information required by the commissioner.

Reorganization Plan—a plan to reorganize into the mutual holding company format containing the information required by section 511 of this rule.

"Reorganizing savings bank" means a mutual savings bank that proposes to reorganize into a mutual holding company under this rule.

Resulting Savings Bank—a stock savings bank that is reorganized as a subsidiary of a reorganizing savings bank to receive a substantial part of the assets and liabilities (including all deposit accounts) of the reorganizing savings bank upon consummation of the reorganization.

Stock Issuance Plan—a plan providing for the issuance of stock by a savings bank subsidiary of a mutual holding company as provided in section 513 of this rule.

Subsidiary—any company which is controlled by a

person or by a company which is a subsidiary of such person.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§505. Procedural Requirements for Reorganizations

A. Approvals Required. Prior to reorganizing into a mutual holding company, a savings bank shall do all of the following:

1. Obtain approval of a reorganization plan by a majority of the board of directors of the reorganizing savings bank and any acquires savings bank.

2. File the reorganization plan with the commissioner.

3. Obtain the approval of the reorganization plan and any proxy statement by the commissioner and, if applicable, the Federal Deposit Insurance Corporation ("FDIC"), the Federal Reserve Board ("FRB"), and/or the Office of Thrift Supervision ("OTS").

4. Obtain approval of the reorganization plan at a meeting of members held in accordance with the institution's articles and bylaws:

a. if the reorganization is a wholly internal reorganization and there is neither a merger nor a sale of all or substantially all of its assets to another financial institution, then an affirmative vote of a majority of the total number of votes which all members of the reorganizing savings bank and any acquires savings banks are entitled to cast is required; or

b. if the reorganization is not wholly internal or involves a merger, a two-thirds vote of such members is required.

Note: Meeting notice requirements shall comply with section 329.C of the Conversion Rule.

B. Public Notice

1. Upon the commissioner's determination that an application for conversion is properly executed and is materially complete, the applicant shall be advised in writing, to promptly publish a notice of the filing of the application. After receipt of the advice, the applicant shall prominently post the notice in each of its offices and publish the notice in a newspaper having general circulation in each community in which any office of the applicant is located, as follows:

NOTICE OF FILING OF AN APPLICATION

FOR REORGANIZATION AS A

SAVINGS BANK MUTUAL HOLDING COMPANY

NOTICE IS HEREBY GIVEN that _____ (name of applicant), located in _____, has filed an application with the Commissioner of the Office of Financial Institutions for the State of Louisiana for approval to reorganize as a savings bank mutual holding company.

The original copy of the application is on file with the Commissioner of the Office of Financial Institutions, 8401 United Plaza

Boulevard, Suite 200, Baton Rouge, Louisiana, 70809, and is available for public inspection or copying. A copy of the plan may also be inspected at any office of the applicant. Written comments including objections to the reorganization plan, and materials supporting the objections from any member of the applicant or any aggrieved person will be considered by the commissioner if postmarked within 20 calendar days after the publication of this notice. The commissioner may, in his discretion, and upon written request, extend the 20 day comment period for an additional calendar days. Failure to timely file written comments may preclude the pursuit of any remedies.

2. If any reorganization notice includes an acquires savings bank, the publication requirements of this section shall be fulfilled both by the reorganizing savings bank and by the acquires savings bank, and the first paragraph of the form of notice in paragraph 2. shall be replaced by the following paragraph:

NOTICE IS HEREBY GIVEN that _____ (name of applicant), located in _____, and _____ (name of applicant), located in _____, have filed applications with the Commissioner of the Office of Financial Institutions for the State of Louisiana for approval to join together to reorganize as a mutual holding company.

3. After publication of the notice, the applicant(s) shall promptly file with the commissioner a copy of the published notice and a publisher's affidavit of publication from each newspaper in which the notice was published.

C. Proxy Procedural Requirements

1. The provisions of §§305.Z and 327 of the Conversion Rule shall apply to all solicitations of proxies by any person in connection with any membership vote required under this rule, to the extent applicable. Proxy materials shall be approved by the commissioner, and contain information relevant to the action that members are being asked to approve. The term *conversion* as it appears in the Conversion Rule shall be deemed to refer to the *reorganization* or the *stock issuance plan*, as appropriate.

2. In addition to all disclosure requirements of Subsection C.1 of this Section and of §515, all proxies requesting account holder approval of a mutual holding company reorganization shall address whether the mutual holding company intends to waive dividends, the implications to account holders, and the reasons such waivers are consistent with the fiduciary duties of the directors of the mutual holding company.

3. Savings banks proposing non-conforming minority stock issuances pursuant to §513.D.2 of this rule must include in the proxy materials to account holders seeking approval of a proposed reorganization an additional disclosure statement that serves as a cover sheet that clearly addresses:

- a. the consequences to account holders of voting to approve a reorganization in which their subscription rights are prioritized differently and potentially eliminated; and
- b. any intent by the mutual holding company to waive dividends, and the implications to account holders.

D. Actions by Commissioner. A proposed

reorganization shall be acted on by the commissioner within 60 days after an application is filed and deemed completed, unless extended an additional 30 days by written notice, and, if approved, it shall be subject to the following conditions:

1. The reorganization shall be consummated not more than 12 months from the date the savings bank's members approve the reorganization plan. This time period may be extended up to an additional 12 months with the prior written approval of the commissioner. Further extensions may be granted for good cause shown.

2. The capitalization of the mutual holding company shall not cause the resulting savings bank to fail to meet its capital maintenance requirements under LSA-R.S. 6:1201 and 1206.

3. Any other conditions may be imposed which the commissioner finds necessary.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§507. Grounds for Disapproval of Reorganizations

A. Basic Standards. The commissioner may disapprove an application for a mutual holding company reorganization on one or more of the following grounds:

1. Disapproval is necessary to prevent unsafe or unsound practices, or to otherwise maintain a sound financial system.

2. The reorganization plan is not fair to members of the reorganizing savings bank.

3. The reorganization plan does not protect the interests of deposit account holders of the reorganizing savings bank.

4. The financial or managerial resources of the reorganizing savings bank or any acquires savings bank warrant disapproval.

5. After the proposed capitalization of the mutual holding company, any savings bank subsidiary would fail to meet the requirements of LSA-R.S. 6:1201 and 1206.

6. A stock issuance is proposed in connection with the reorganization that fails to meet the standards established by section 513.

7. The reorganizing savings bank or any acquires savings bank fails to furnish the information required to be included in the reorganization plan or any other information requested by the commissioner regarding the proposed reorganization.

8. The proposed reorganization would violate any applicable federal or state law, rule, or policy of OFI.

9. The resulting or acquires savings banks would not have their accounts insured by the FDIC.

B. Capitalization

1. The commissioner shall disapprove a proposal by a reorganizing savings bank or any acquires savings bank

to capitalize a mutual holding company if, immediately following the reorganization, the resulting or acquires savings bank will fail to meet the capital requirements of LSA-R.S. 6:1201 and 1206. If the net worth of the reorganizing savings bank will, under the reorganization plan, meet the minimum net worth requirements of LSA-R.S. 6:1201 and 1206, a reorganization plan may permit a mutual holding company to retain assets of the reorganizing mutual savings bank.

2. Proposals by reorganizing and acquires savings banks to capitalize mutual holding companies shall also comply with any statutes and rules governing capital distributions by savings banks.

C. Convenience and Needs. The commissioner will also examine the extent to which the reorganization will affect the convenience and needs of the communities to be served, and the impact on operating efficiency of the affected savings banks.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 20, 1995).

§509. Membership Rights

A. Depositors of Involved Savings Banks. The articles of incorporation or bylaws of a mutual holding company must:

1. confer upon existing and future depositors of the resulting savings bank the same membership rights in the mutual holding company as were conferred upon depositors by the articles and bylaws of the reorganizing savings bank as in effect immediately prior to the reorganization;

2. confer upon existing and future depositors of any acquires savings bank or any savings bank that is in the mutual form when acquired by the mutual holding company the same membership rights in the mutual holding company as were conferred upon depositors by the articles and bylaws of the acquires savings bank immediately prior to the acquisition, provided that if the acquires savings bank is merged into another savings bank from which the mutual holding company draws members, the depositors of the acquires savings bank shall receive the same membership rights as the depositors of the savings bank into which the acquires savings bank is merged;

3. confer upon the borrowers of the resulting savings bank who are borrowers at the time of reorganization the same membership rights in the mutual holding company as were conferred upon them by the articles and bylaws of the reorganizing savings bank immediately prior to reorganization, but shall not confer any membership rights in connection with any borrowing made after the reorganization; and

4. confer upon the borrowers of any acquires savings

bank or any savings bank that is in the mutual form when acquired by the mutual holding company who are borrowers at the time of the acquisition, the same membership rights in the mutual holding company as were conferred upon them by the articles and bylaws of the acquires savings bank immediately prior to acquisition, but shall not confer any membership rights in connection with any borrowing made after the acquisition, provided that if the acquires savings bank is merged into another savings bank from which the mutual holding company draws members, the borrowers of the acquires savings bank shall instead receive the same grandfathered membership rights as the borrowers of the savings bank into which the acquires savings bank is merged received at the time the savings bank became a subsidiary of the mutual holding company;

5. provide that membership in a mutual holding company ends if the member withdraws the full withdrawal value of all deposit accounts in subsidiary mutual savings banks. A member who requests the full withdrawal value of the member's deposit accounts remains a member until the withdrawal value is paid in full.

B. Depositors of Stock Savings Banks. A mutual holding company that acquires a stock savings bank other than a resulting savings bank or an acquires savings bank, shall not confer any membership rights in the mutual holding company upon the depositors of such savings bank unless the savings bank is merged into a mutual savings bank from which the mutual holding company draws members, in which case the depositors of the stock savings bank shall receive the same membership rights as other depositors of the mutual savings bank into which the stock savings bank is merged.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§511. Contents of Reorganization Plans

Each reorganization plan shall contain a complete description of all significant terms of the proposed reorganization, and shall include or provide all of the following:

1. any stock issuance plan proposed in connection with the reorganization plan;

2. an opinion of counsel or a ruling from the Internal Revenue Service as to the tax treatment of the proposed reorganization;

3. the proposed articles of incorporation and bylaws of: the reorganizing association, the resulting savings bank, the mutual holding company, and any acquires savings bank indicating that such acquires will be in the stock form;

4. a description of the method of reorganization;

5. that upon consummation of the reorganization, substantially all of the assets and liabilities, including all deposit accounts of the reorganizing savings bank, shall be transferred to the resulting savings bank, which shall immediately become an operating savings bank subsidiary of the mutual holding company;

6. that all assets, rights, obligations and liabilities of whatever nature of the reorganizing savings bank that are not expressly retained by the mutual holding company shall be deemed transferred to the resulting savings bank;

7. that each holder of a deposit account in the reorganizing savings bank or any acquires savings bank immediately prior to the reorganization shall, upon consummation of the reorganization, receive without payment, an identical deposit account in the resulting savings bank or the acquires savings bank, or as appropriate if savings banks are being merged;

8. that a proxy that may be cast on behalf of a mutual savings bank member may be cast on behalf of a mutual holding company member until the proxy is revoked or superseded pursuant to the articles and bylaws of the institution;

9. that the reorganization plan adopted by the boards of directors of the reorganizing savings bank and any acquires savings bank may be:

a. amended by those boards of directors as a result of any regulator's comments prior to any solicitation of proxies from the members by the board of directors of the reorganizing savings bank and any acquires savings bank to vote on the reorganization plan and at any later time with the consent of the commissioner; and/or

b. terminated by the board of directors of the reorganizing savings bank or any acquires savings bank at any time prior to the meeting of the members called to consider the reorganization plan and at any later time with the consent of the commissioner;

10. that the reorganization plan shall be terminated if not completed within a specified period of time which shall be not more than 12 months from the date the savings bank members approve the plan, unless extended up to an additional 12 months with the prior written approval of the commissioner for good cause shown;

11. a statement, in approximate amounts, of the categories of expenses to be incurred in connection with the reorganization, which shall be reasonable; and

12. such additional information as the commissioner directs.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§513. Stock Issuance Plans

A. Approval Required

1. No savings bank subsidiary of a mutual holding

company, including a resulting or acquires savings bank, may issue stock to persons other than its mutual holding company parent without the prior written approval of the commissioner.

2. The commissioner may approve a proposed stock issuance if all of the following criteria are met:

a. The proposed issuance is to be made pursuant to a stock issuance plan that contains all the provisions required by this §513 and by §515.

b. The stock issuance plan is consistent with the articles of incorporation, including the type and amount of stock that may be issued.

c. The stock issuance plan would provide the savings bank, its mutual holding company parent, and any other savings bank subsidiaries of the mutual holding company with sufficient capital and would not be detrimental to the savings bank, its mutual holding company, members of the mutual holding company or the interests of depositors of the savings bank.

d. The proposed price or price range, the classification and any terms or conditions of the stock to be issued are reasonable.

e. The savings bank furnishes the information required by the commissioner.

f. If the stock issuance plan is part of a reorganization plan under §511, then the stock issuance plan shall be approved by the members of the reorganizing savings bank pursuant to §505.A.4; however, if the stock issuance plan is subsequent to a previously approved plan of reorganization, then approval of at least a majority of the members of the mutual holding company is required.

g. The proposed issuance would fail to meet the convenience and needs of the community served by the savings bank.

h. The proposed issuance complies with all other applicable laws and rules.

3. In determining whether the criteria of paragraph A.2 of this section are met, the commissioner may consider the following factors:

a. the savings bank's size, capital position, and quality of management;

b. the savings bank's business objectives;

c. the dollar amount and number of shares to be issued pursuant to the plan;

d. the market conditions which may affect the plan;

e. the existence of a trading market in, or methods of later resale or repurchase, of the stock to be issued under the plan;

f. any benefits provided to the savings bank through employee or director incentive aspects of the plan; and/or

g. the impact, if any, of the participation or non-participation in the offering by members of the mutual holding company parent of the savings bank or other shareholders.

B. Pricing of Stock. The pricing and sale of stock pursuant to a stock issuance shall comply with § 331 of the

Conversion Rule, to the extent applicable. If the proposed price or price range includes any discount due to the minority status of the stock to be offered, the plan shall also indicate the amount of the discount and how that discount was determined.

C. Offering Restrictions

1. No representation may be made in connection with the offer or sale of any stock issued under this section that the price or price range of the stock has been approved or disapproved by the commissioner or that the commissioner has endorsed the accuracy or adequacy of any offering or sales document disseminated.

2. In connection with the offer, sale or purchase of stock, no person may:

a. employ any device, scheme, or artifice to defraud;

b. make any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in the light of the circumstances, not misleading; or

c. engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon a purchaser or seller.

3. Prior to the completion of a stock issuance pursuant to this section, no person shall:

a. transfer, receive or enter into any agreement or understanding to transfer, the legal or beneficial ownership of the stock to be issued to any other person, except for one or more tax-qualified employee stock benefit plan(s) of the savings bank or mutual holding company provided the plan(s) do not have in the aggregate more than 25 percent of any class of security of the savings bank or mutual holding company; or

b. make any offer, or any announcement of any offer, to purchase any stock to be issued, or knowingly acquire any stock in the issuance, in excess of the maximum purchase limitations established in the stock issuance plan and allowed by the commissioner, except as to offers for public resale made exclusively to the savings bank or to the underwriters or a selling group acting on its behalf.

D. Mandatory Provisions. Each stock issuance plan shall:

a. Contain a complete description of all significant terms of the proposed stock issuance, shall attach a copy of each proposed stock certificate form, any proposed stock order form, and any agreements or other documents defining or limiting the rights of the stockholders.

2. Provide that the offering be structured in a manner similar to the procedural and substantive requirements of a standard conversion under the Conversion Rule, including the stock purchase subscription rights and priorities, as applied to members of the issuing savings bank's mutual holding company, unless the savings bank demonstrates to the satisfaction of the commissioner that a non-conforming issuance would be more beneficial to the

association compared to a conforming offering, considering, in the aggregate, the effect of each on the savings bank, its financial and managerial resources, its future prospects, and the convenience and needs of the community to be served.

3. Provide that the aggregate amount of outstanding voting common stock owned or controlled by persons other than the mutual holding company at the close of any proposed issuance shall be less than 50 percent of the total outstanding voting common stock. This provision may be omitted if the proposed issuance will be conducted by a savings bank that was in the stock form when acquired by its mutual holding company parent if the savings bank is not a resulting savings bank or an acquires savings bank. Any stock which has no present or contingent voting rights may be issued by a savings bank subsidiary of a mutual holding company to persons other than the savings bank's mutual holding company, consistent with applicable law.

4. Provide that the aggregate amount of stock which any person and his/her associates, or any group of persons acting in concert, or any employee stock benefit plan may subscribe for or purchase in the stock issuance plus all prior stock issuances, shall not exceed 10 percent of the total outstanding shares of the savings bank held by persons other than the savings bank's mutual holding company parent at the close of the proposed issuance. This 10 percent acquisition limit shall not apply to shares purchased in the secondary market. Shares held by one or more tax-qualified employee stock benefit plans and attributable to a person shall not be aggregated with shares purchased directly by or otherwise attributable to that person; however shares held by non-tax-qualified plans shall be so aggregated.

a. The limitations discussed in this paragraph shall be contained in the plan and in the articles and bylaws of the savings bank.

b. When any person violates this paragraph, the stock beneficially owned by such person in excess of 10 percent shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in any matter submitted to the stockholders for a vote.

5. Provide that the aggregate amount of stock acquired in the issuance, plus all prior issuances of the savings bank by all non-tax-qualified employee stock benefit plans, officers and directors of the savings bank and their associates, shall not exceed 35 percent of the total outstanding shares of the savings bank held by persons other than its mutual holding company parent at the close of the proposed issuance, if the savings bank has less than \$50 million in total assets, or 25 percent if its total assets are more than \$500 million. If the savings bank has between \$50-\$500 million in total assets, the maximum percentage shall be equal to 35 percent minus 1 percent multiplied by the quotient of the total assets less \$50 million divided by \$45 million. In calculating the number of shares which may be purchased, any shares

attributable to the officers and directors and their associates but held by one or more tax-qualified employee stock benefit plans shall not be included. The acquisition restrictions of this paragraph shall not apply to shares acquired by the affected persons in the secondary market.

6. Provide that the sale price of the stock sold in the issuance shall be a uniform price based on an independent valuation, as provided in Subsection B of this Section.

7. Provide that the plan shall specify the underwriting or other marketing arrangements for the sale of stock.

8. Provide that, for a period of three years following the issuance, an officer, director, or his/her associates shall not purchase, without the prior written approval of the commissioner, any stock of the savings bank except from a broker-dealer registered with the Commissioner of Securities for the State of Louisiana and the Securities and Exchange Commission. However, this paragraph shall not apply to:

a. purchases of stock made by and held by any one or more tax- or non-tax-qualified employee stock benefit plans which may be attributable to individual officers or directors, provided that such plans do not have in the aggregate beneficial ownership of more than 25 percent of any class of stock; or

b. negotiated transactions involving more than one percent of the outstanding stock in that class.

9. Provide that all shares of capital stock purchased by directors, officers, or their associates in the issuance, shall be subject to the restriction that the shares shall not be sold, without the prior written approval of the commissioner, for a period of at least one year following the date of purchase, except upon the death of the director, officer, or associate.

10. Provide that, in connection with shares of capital stock subject to restriction on sale for a period of time:

a. each certificate of stock shall bear a legend stating the restriction;

b. instructions shall be issued to the transfer agent for the stock with respect to applicable restrictions on transfer of any restricted stock; and

c. any shares issued as a stock dividend, stock split or otherwise relating to any restricted stock shall be subject to the same restrictions as apply to the restricted stock.

11. Provide that if, at the close of the issuance there are more than 100 shareholders of any class of stock, the savings bank shall use its best efforts to:

a. encourage and assist a market maker to establish and maintain a market for the stock; and

b. list that class of stock on a national or regional securities exchange or on the NASDAQ quotation system.

12. Provide that the savings bank may make scheduled, discretionary contributions to tax-qualified employee stock benefit plans if the contributions do not cause the savings bank to fail to meet its regulatory capital requirements.

13. Provide that after the stock issuance, the savings

bank will comply with all applicable federal and state securities registration requirements.

14. Provide that the savings bank shall not lend funds or otherwise extend credit on an unsecured basis or upon the security of the savings bank's stock to any person to purchase the stock of the savings bank.

15. Provide that, if necessary, the savings bank's articles of incorporation will be amended to authorize the stock issuance.

16. Provide that the expenses incurred in connection with the issuance shall be reasonable and specified in the plan.

17. Provide that, if proposed as part of a reorganization plan, the stock issuance plan may be amended or terminated in the same manner as the reorganization plan under §511.I; otherwise it may be amended or terminated by the board of directors of the issuing savings bank prior to approval by the commissioner, or thereafter with the commissioner's approval.

18. The stock issuance plan shall be terminated if not completed within a time specified in the stock issuance plan unless an extension is requested in writing for good cause shown and approved in writing by the commissioner.

E. Optional Provisions. A stock issuance plan may provide that:

1. If the proposed stock issuance is part of a reorganization plan, the offering may be commenced concurrently with or after the mailing of any authorized proxy statements to the members of the reorganizing savings bank and any acquires savings bank. The offering may be concluded prior to the required membership votes, provided the offer and sale of the stock is conditioned upon the approval of the reorganization plan and stock issuance plan by the members of the reorganizing savings bank and any acquiree savings bank.

2. Any insignificant residue of stock not sold in the offering may be sold in any other manner provided in the stock issuance plan that is approved by the commissioner in writing.

3. Orders for stock purchases made in connection with the reorganization may be subject to minimum and/or maximum dollar and/or numerical limits. Such limits shall be reasonable and fair in consideration of factors such as the size of the savings bank, the amount of the typical qualifying deposit, the reasons for such limitations, and other factors, all subject to approval by the commissioner.

4. The plan may require a six month holding period prior to the sale of stock which was sold at a discount.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§515. Full Disclosure Required

The stock issuance plan, proxy and/or offering materials must contain thorough disclosures of all material facts, and particularly as to all benefits which may be obtained by any person in the transaction at issue. Benefits to officers, directors, their associates, employees and to non-members or non-stockholders (including charitable or community organizations) shall be disclosed in chart form with any necessary textual description and shall comply in all respects to the provisions set forth under §311 of the Conversion Rule.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§517. Activities of Mutual Holding Companies

A. Permitted Activities. A mutual holding company may, with the approval of its board of directors and/or members or shareholders as required by its articles and bylaws, and by state law:

1. invest in or acquire control of a stock savings bank, a savings association or their holding companies;
2. acquire a mutual savings bank or mutual savings and loan association by merger of such mutual into an interim or existing subsidiary savings bank of the mutual holding company from which the mutual holding company draws members in accordance with the Louisiana Savings Bank Act of 1990, LSA-R.S. 6:1131, et seq;
3. with the consent of the commissioner and subject to such conditions as the commissioner may prescribe, acquire control of another mutual holding company by merging with or into it or a subsidiary interim holding company;
4. acquire control of a savings bank holding company, savings and loan holding company, or a bank holding company in the stock form with the written approval of the commissioner. An acquired holding company may be held as a subsidiary or merged into the mutual holding company;
5. invest in or acquire control of any corporation, other than a mutual holding company, which is engaged exclusively in activities approved by the commissioner;
6. invest in securities a savings bank may invest in under the Louisiana Savings Bank Act of 1990;
7. engage in activities a savings bank may engage in under the Louisiana Savings Bank Act of 1990;
8. furnish or perform management services for a subsidiary;
9. hold, manage, or liquidate assets owned by or acquired from a subsidiary;
10. hold or manage property which it or a subsidiary uses;
11. unless limited or prohibited by the commissioner, engage in any activity that the Federal Reserve Board

permits a bank holding company to engage in under 12 CFR 225 (Regulation Y), subpart C.

B. Prohibitions on Stock Repurchases

1. A subsidiary savings bank of a mutual holding company shall, pursuant to LSA-R.S. 6:1341, be subject to the provisions of LSA-R.S. 6:416, which prohibit the savings bank from purchasing or owning directly or indirectly any of its own stock or the stock of its parent company unless the stock has been subsequently taken for a debt previously contracted, in which case the stock shall not be held for more than one year.

2. A mutual holding company may, at any time, and without prior approval of the commissioner, acquire additional shares of the stock of a subsidiary savings bank.

C. Dispositions. With the prior written approval of the commissioner, a mutual holding company may directly or indirectly, transfer any interest in stock which it holds in any subsidiary savings bank, savings association, holding company or other corporation; or cause or permit the transfer of all or a substantial portion of the assets or liabilities of any such subsidiary entity.

D. Restrictions on Waiver of Dividends. Unless authorized by the commissioner, no mutual holding company may waive its right to receive any dividend declared by a subsidiary.

E. Restrictions on Indemnification. LSA-R.S. 6:1190(c)(6) shall apply to mutual holding companies in the same manner as if they were mutual savings banks.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§519. Registration, Reports, and Examinations

A. Reports of Mutual Holding Companies. Each mutual holding company shall furnish, in the manner and form prescribed by the commissioner, an annual report of its operations for the fiscal year in which it becomes a mutual holding company, and for each fiscal year during which it remains a mutual holding company. Additional information and reports shall be furnished as the commissioner may require.

B. Examinations and Inspections. The commissioner may examine or inspect any mutual holding company and each of its subsidiaries and prepare a report of their operations and activities. The commissioner may rely on examination reports made by the primary federal regulatory agency of the mutual holding company's subsidiary savings bank.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§521. Conversion or Liquidation of Mutual Holding Companies

A. Conversion. A mutual holding company may convert from mutual to stock form in accordance with a plan of conversion approved by the commissioner pursuant to the procedures for conversion of a mutual savings bank under the Conversion Rule.

B. Voluntary Liquidation. The provisions of LSA-R.S. 6:1282 shall apply to a mutual holding company in the same manner as they apply to a savings bank.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

§523. Procedural Requirements for Filing Applications

The commissioner may adopt internal policies relative to the procedural requirements for filing an application for reorganization pursuant to this rule.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 6:1141.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:1300 (November 20, 1994), amended LR 21: (October 1995).

Larry L. Murray
Commissioner

9510#046

RULE

Board of Elementary and Secondary Education

Bulletin 741: Physics of Technology

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 adopted an amendment to Bulletin 741, Louisiana Handbook for School Administrators and changed a course title in the science requirements for high school graduation from "Principles of Technology" to "Physics of Technology".

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21: (October 1995).

Carole Wallin
Executive Director

9510#057

RULE

Board of Elementary and Secondary Education

Bulletin 741: Summer School

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 adopted the following amendments to Bulletin 741, Louisiana Handbook for School Administrators.

Delete Standards 2.113.14 (public) and 6.113.14 (nonpublic) and reword Standards 2.113.15 and 6.113.15 as stated below:

"Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies."

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21: (October 1995).

Carole Wallin
Executive Director

9510#058

RULE

Board of Elementary and Secondary Education

Bulletin 746: Elementary/Secondary Certification

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 adopted revisions to Bulletin 746, Louisiana Standards for State Certification of School Personnel, as recommended by the Department of Education, that will change the certification process for elementary and secondary education.

These revisions were adopted as an emergency rule, effective March 23, 1995 and printed in full in the April, 1995 issue of the *Louisiana Register*.

In addition to the *Louisiana Register*, these revisions may be seen in full in the Bureau of Higher Education and Teacher Certification, State Department of Education, or in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Carole Wallin
Executive Director

9510#059

RULE

Board of Elementary and Secondary Education

Bulletin 921: Advisory Council Competitive Projects

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary adopted the amendments to Bulletin 921, 8(g) Policy and Procedure Manual to eliminate the 8(g) Advisory Council's participation in the eligibility review of 8(g) competitive projects as stated below:

Part 150. Evaluation of Support Fund Applications

150. Determination of Eligibility

DELETE the following:

"Following the review for compliance with the constitutional requirements, the applications shall be reviewed by the 8(g) Advisory Council for conformity

to priorities and objectives established by the board in the Annual 8(g) Program." DELETE the following:

"150B. Review of conformity to the established 8(g) Program priorities and objectives.

The 8(g) Advisory Council shall review all applications for conformity to the established 8(g) Program priorities and objectives, and shall make recommendations concerning eligibility determinations to the board at its February meeting."

AUTHORITY NOTE: Promulgated in accordance with LA Constitution, Art. VII, Section 10.1, R.S. 17:3801

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21: (October 1995).

Carole Wallin
Executive Director

9510#056

RULE

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

Fee System (LAC 33:III.223) (AQ98)

(Editor's Note: A portion of the Air Quality Fee Schedule (LAC 33:III.223) which appeared on pages 781-791 of the August 20, 1995 *Louisiana Register* is being republished below to correct errors. The remainder of the table is unchanged.)

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 2. Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

FEE SCHEDULE LISTING						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
* * * [See Prior Text In Fee Number 0010 - 0100]						
0110	Animal Feed Preparation	2048	531.00	2652.00	1593.00	531.00
* * * [See Prior Text In Fee Number 0120 - 0190]						
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095 MIN. MAX.	106.11 252.00 6661.00	530.60 1260.00 33306.00	318.36 756.00 19984.00	106.11 252.00 6661.00
* * * [See Prior Text In Fee Number 0210 - 0600]						
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	5.29 1310.00	26.52 6552.00	15.91 3931.00	5.29 1310.00
* * * [See Prior Text In Fee Number 0620 - 0690]						
0695	Chemical and chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	756.00	3780.00	2268.00	756.00
* * * [See Prior Text In Fee Number 0700 - 1611]						
1612	Dry Bulk Transfer Derrick Crane Barge - No Grain Transfer	5153	504.00	2520.00	1512.00	504.00
* * * [See Prior Text In Fee Number 1620 - 2810]						

Explanatory Notes for Fee Schedule

* * *

[See Prior Text in Notes 1-10]

Note 11 The maximum annual maintenance fee for categories 1430 thru 1490 is not to exceed \$26,536 total for any one gas transmission company.

Note 12 The maximum annual maintenance fee for one location with two or more plants shall be \$1,201.

* * *

[See Prior Text In Notes 13-17]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987, amended LR 14:613 (September 1988), LR 15:735 (September 1989), LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1419 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 21:782 (August

1995), LR 21:942 (September 1995), repromulgated LR 21: (October 1995).

James B. Thompson, III
Assistant Secretary

9510#048

RULE

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

Undesirable Levels
(LAC 33:III.Chapters 1,7,11,13, and 25)
(AQ125)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III, (AQ125).

This rule removes the phrase "undesirable levels" from

LAC 33:III.111, LAC 33:III.701.C, LAC 33:III.1101.A and 1109.A, LAC 33:III.1303.A, and LAC 33:III.2511.E.5. This phrase has been ruled by the court to cause the aforementioned regulations to be unenforceable.

These regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 1. General Provisions

§111. Definitions

* * *

[See Prior Text]

Delete *Undesirable Levels* and its definition.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), LR 17:777 (August 1991), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (October 1995).

Chapter 7. Ambient Air Quality

§701. Purpose

* * *

[See Prior Text in A-B]

C. Sulfur Dioxide. It is the purpose of this Subsection to establish ambient air standards and regulations for the state for sulfur dioxide.

* * *

[See Prior Text in D-H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (October 1995).

Chapter 11. Control of Emissions of Smoke

§1101. Control of Air Pollution from Smoke

A. Purpose. It is the purpose of this regulation to establish emission standards on smoke.

* * *

[See Prior Text in B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (October 1995).

§1109. Control of Air Pollution from Outdoor Burning

A. Purpose. It is the purpose of this Section to control outdoor burning of waste or other combustible material.

* * *

[See Prior Text in B-E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (October 1995).

Chapter 13. Emission Standards for Particulate Matter (Including Standards for Some Specific Facilities)

Subchapter A. General

§1303. Provisions Governing Specific Activities

A. Toxic Substances. Substances which are by nature toxic to human or animal life or vegetation may be controlled to more restrictive levels than is required for particulate matter in general.

* * *

[See Prior Text in B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21: (October 1995).

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

* * *

[See Prior Text in A-E.4]

5. All BWIs shall be designed with a stack emission point that controls to the maximum extent possible the discharge of air contaminants and which does not adversely impact air quality in the local area. All incinerator stack heights must be approved by the administrative authority.

* * *

[See Prior Text in E.6-L]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), LR 21: (October 1995).

James B. Thompson, III
Assistant Secretary

9510#019

RULE

**Office of the Governor
Office of Veterans Affairs**

Jackson Veterans Center (LAC 4:VII.929 and 931)

The Office of Veterans Affairs hereby advertises its intent to repeal in its entirety LAC 4:VII.Chapter 9, Subchapter C, §929 and §931, as same duplicate rules recently revised and published under LAC 4:VII.Chapter 9, Subchapter D, §937-955.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

**Subchapter C. Louisiana Veterans Center, Jackson,
Louisiana**

§929. Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:251.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:485 (October 1981), repealed LR 21: (October 1995).

§931. Resident's Maintenance Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:485 (October 1981), repealed LR 21: (October 1995).

Ernie P. Broussard
Executive Director

9510#021

RULE

**Department of Health and Hospitals
Board of Examiners of Nursing Facility
Administrators**

**Certified Nurses Aide Register
(LAC 46:XLIX.1601 and 1603)**

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby adopts Chapter 16 in its rules and regulations relative to the establishment of nurses aides and their certificate fees. These fees are used to defray the costs of issuing the certificate or certification card provided the certified nurse aide wishes to have one issued.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLIX. Board of Examiners of Nursing
Facility Administrators**

Chapter 16. Certified Nurses Aide Register

§1601. Operation of CNA Register

A. The board shall establish and operate a state register which shall include information mandated by the US DHHS on certified nurse aides. The register shall be operated consistent with an inter-agency agreement with the Louisiana Department of Health and Hospitals' Division of Health Services Financing.

B. Information contained in the register shall be available to administrators of health care facilities as determined by DHH which shall be responsible for the actual certification of nurse aides and shall determine when a nurse aide is eligible to be placed on the register together with the listing of any violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 21: (October 1995).

§1603. Certificate of Certification

The board shall impose a fee for issuing a certificate, or a card of certification, in the amount of not more than \$10 per each year. There shall be a fee of not more than \$20 for replacement of a certificate or card of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 21: (October 1995).

Kemp Wright
Executive Director

9410#020

RULE

**Department of Natural Resources
Office of Conservation**

**Statewide Order 29-O-1
Revegetation Standard for Success
(LAC 43:XV.5423)**

Under the authority of the Louisiana Surface Mining and Reclamation Act, particularly R.S. 30:901 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Surface Mining Regulations, Statewide Order 29-O-1.

The federal Office of Surface Mining Reclamation and Enforcement, under the provisions of 30 CFR 732.17(d),

has notified the Louisiana Office of Conservation, Injection and Mining Division of changes in Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and the federal regulations promulgated pursuant to SMCRA which make it necessary for Louisiana to modify its Surface Mining Regulatory Program to remain consistent with all federal regulations. The director of the Office of Surface Mining Reclamation and Enforcement approved the proposed amendments in *Federal Register*, vol. 60, number 15, January 24, 1995, pp. 4542-4544.

Title 43

NATURAL RESOURCES

Part XV. Office of Conservation - Surface Mining

Subpart 5. Permanent Program Performance

Standards

Chapter 53. Permanent Program Performance

Standards: Surface Mining Activities

§5423. Revegetation: Standards for Success

A.1. - 5. ...

B. Standards for success shall be applied in accordance with the approved post-mining land use and shall be selected from the following:

1. - 3.c. ...

4. For areas developed for forestry, the ground cover and live stems per acre on the revegetated area shall be at least equal to the following standard for success:

a. At the time of final bond release there shall be 450 well-distributed free-to-grow live pine trees of the same age per acre or 250 well-distributed free-to-grow live hardwood trees of the same age per acre. Countable stems shall have utility for the approved post-mining land use, be healthy, and be a minimum of three years old. This standard has been developed after consultation and approval by the Louisiana Department of Agriculture and Forestry.

Free-to-Grow—pine seedlings or saplings without significant hardwood competition. Competing vegetation shades the pine's crown on less than 30 percent of the crown's circumference and the pines are judged to have better than a 90 percent chance of capturing a place in the crown canopy.

(a). This standard has been developed after consultation and approval by the Louisiana Department of Agriculture and Forestry.

(b). Vegetative ground cover shall not be less than 70 percent. This standard has been developed after consultation and approval by the Louisiana Department of Agriculture and Forestry.

Well-Distributed—uniform stocking levels over an entire planting site.

5. - 10. ...

C.1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 21: (October 1995).

Ernest A. Burguières, III
Commissioner

9510#018

RULE

Department of Natural Resources Office of Conservation

Statewide Order No. 29 L-2 Termination of Units (LAC 43:XIX.3101-3105)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order Number 29-L-1.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 13. Statewide Order Number 29-L-2

Chapter 31. Termination of Units

§3101. Scope

This order establishes rules and regulations for termination of any unit established by the commissioner of conservation pursuant to the authority of Title 30 of the Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated LR 19:776 (June 1993), amended LR 21: (October 1995).

§3103. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this order.

District Manager—the manager of any one of the districts of the state of Louisiana under the Office of Conservation, and refers specifically to the manager within whose district the pool for which all units are sought to be terminated are located.

Interested Party—any person, as person is defined in Title 30 of the Revised Statutes of 1950, who owns an interest in all units sought to be terminated.

Pool—an underground reservoir containing a common accumulation of crude petroleum or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure

is covered by the term pool.

Unit—all units, whether one or more, established for a particular pool, by order of the commissioner of conservation pursuant to authority of Subsection B of Section 9 or Subsection B or C of Section 5 of Title 30 of the Revised Statutes of 1950.

Well—all wells drilled within the confines of all units sought to be terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated, LR 19:776 (June 1993), amended LR 21: (October 1995).

§3105. Order

A. On and after the effective date hereof, a supplemental order terminating all existing units established by the commissioner for a pool may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the pool for which the unit was established, a period of one year and 90 days has elapsed without:

1. production from the pool; and
2. the existence of a well proven capable of producing from the pool; and
3. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.

B. Each application for unit termination shall be filed with the commissioner with a copy to the district manager and each interested party and shall include the following:

1. a plat showing all existing units established for the pool, with each well located thereon, together with order number and effective date of the order of the commissioner establishing said units. Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment;
2. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with LAC 43:XIX.137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well is not capable of producing from the pool;
3. a signed statement indicating that with respect to the pool for which the unit was established, to the best of applicant's knowledge, a period of one year and 90 days has elapsed without:
 - a. production from the pool; and
 - b. the existence of a well proven capable of producing from the pool; and
 - c. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool;
4. a list of all interested parties to whom a copy of the application has been sent;

5. an application fee as established by LAC 43:XIX.201 et seq., (Statewide Order Number 29-Q-1) or successor regulation.

C. Notice of the filing of the application of unit termination shall be published in the *Official Journal* of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

D. In the event that production from the pool is subsequently reestablished from an existing well which was deemed not capable of producing from the pool as of the effective date of unit termination, the operator of record of such well shall immediately apply to the commissioner for a public hearing, after 30-day legal notice, to consider evidence concerning whether the previously existing unit on which the well is located should be reestablished for such well.

E. The effective date of any supplemental order issued hereunder can not be prior to the expiration of the legal advertisement period, reference §3105.C hereof. Consequently, any activity described in §3105.A hereof, occurring between the date of the signed statement, reference §3105.B.3 hereof and the expiration of the legal advertisement period, shall result in application denial.

F. Any supplemental order issued hereunder approving the application shall terminate all units created for the pool and shall be filed for record as provided in Section 11.1 of Title 30 of the Revised Statutes of 1950.

G. This order supersedes Statewide Order Number 29-L-1 and shall be effective on and after October 20, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), amended, LR 19:776 (June 1993), amended LR 21: (October 1995).

Ernest A. Burguières, III
Commissioner

9510#024

RULE

Department of Natural Resources
Office of Conservation

Statewide Order No. 29-K-1
Substitute Unit Wells (LAC 43:XIX.Chapter 29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order Number 29-K.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 12. Statewide Order Number 29-K-1

Chapter 29. Substitute Unit Wells

§2901. Scope

This Order provides rules and regulations governing the unprotested applications for designation of substitute unit wells.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:775 (June 1993), amended LR 21: (October 1995).

§2903. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this Order.

Commissioner—the commissioner of conservation of the state of Louisiana.

District Manager—the manager of any one of the districts of the state of Louisiana under the Office of Conservation, and, as used, refers specifically to the manager within whose district the field or fields affected by the special order, as hereinafter defined, are located.

Interested Party—any person, as person is defined in Title 30 of the R.S. of 1950, who is known to the applicant after diligent search to own an interest in the unit affected by the application.

Legal Location—any location which is in accordance with applicable special and statewide orders.

Special Order—any order of the commissioner and any amendments or supplements thereto which created the unit for which the designation of a substitute unit well is requested.

Substitute Unit Well—any well already drilled to, or to be drilled to, completed or recompleted in the unitized sand which in the interest of good conservation practices should be designated to take the place of and become the unit well.

Unit—any drilling unit or units created by order of the commissioner.

Unitized Sand—the sand covered by the special order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:775 (June 1993), amended LR 21: (October 1995).

§2905. Order

A. On and after the effective date hereof the

commissioner may designate by supplemental order a substitute unit well at a legal location for any unit without the necessity of a public hearing upon proper showing that such substitute unit well is desirable and in the interest of sound conservation and that the location thereof complies in all respects with applicable special and statewide orders.

B. Future applications after the effective date hereof for the designation of a substitute unit well at a legal location shall be made to the commissioner with copy to the district manager and to interested parties and such application shall include the following:

1. statement of reason explaining the need or desire for the designation of the substitute unit well;

2. plat showing the unit, the unit well and the location of the proposed substitute unit well, with particular reference to the distance to unit boundaries and other wells drilling to, completed in, or permitted for the Unitized Sand;

3. name of sand, field and parish where the unit is located;

4. name of the operator of the unit;

5. the number of the order or orders establishing the unit and the name of the unit, including the number or letter designation of the unit;

6. the plat attached to the application should not exceed 16 inches by 22 inches;

7. an application fee as established by LAC 43:XIX.201 et seq. (Statewide Order Number 29-Q-1) or successor regulation.

C. Notice of the filing of the application for designation of a substitute unit well shall be published in the *Official Journal* of the state of Louisiana.

D. Based on the application the commissioner may, at any time after 10 days following the date on which the notice is published, issue a supplemental order designating a substitute unit well as proposed unless prior thereto application for public hearing opposing such designation is filed with the required hearing fee and in compliance with the LAC 43:XIX.3901 et seq. (Rules of Procedure).

E. This order supersedes Statewide Order Number 29-K and shall be effective on and after October 20, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation, May 4, 1964, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19:775 (June 1993), amended LR 21: (October 1995).

Ernest A. Burguières, III
Commissioner

9510#025

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Racing Commission

Bleeder Medication (LAC 35:I.1507)

The State Racing Commission hereby gives notice that it intends to amend LAC 35:I.1507.E "Bleeder Medication", because a horse's eligibility date, due to bleeder medication, should be when he runs in a race, not when entered (shortens the wait time).

Title 35

HORSE RACING

Part I. General Provisions

Chapter 15. Permitted Medication §1507. Bleeder Medication

E. A bleeder shall be eligible to run as follows, but only after a recorded workout.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 6:174 (May 1980), amended LR 6:543 (September 1980), LR 9:547 (August 1983), LR 15:7 (January 1989), LR 22:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (LINC 8-635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, November 6, 1995, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Paul D. Burgess
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bleeder Medication

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action does not effect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits horsemen (particularly owners and trainers) by basing a horse's bleeder medication eligibility on race date, not entry date (2 to 4 day shorter wait).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9510#083

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Racing Commission

Claiming Rule-Time of Entering (LAC 35:XI.9905)

The State Racing Commission hereby gives notice that it intends to repeal LAC 35:XI.9905 "Timing of Entering Next Claiming Race," to eliminate the restrictions of entering a horse in an upcoming claiming race.

Title 35

HORSE RACING

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

Repealed in its Entirety

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

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:445 (December 1976), repromulgated LR 3:41 (January 1977), LR 4:285 (August 1978), amended LR 14:292 (May 1988), repealed LR 22:

The domicile office of the State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (LINC 8-635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, November 6, 1995, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Timing of Entering Next Claiming Race**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There are no costs to implement this action.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

This action does not effect revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

This action benefits owners by eliminating the restrictions of entering a horse in an upcoming claiming race.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9510#080

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Entry after Excused (LAC 35:III.6353)

The State Racing Commission hereby gives notice that it intends to amend LAC 35:V.6353 "Entry after Excused," changing 'racing days' to 'calendar days' for the waiting time for a horse to medically improve to race.

Title 35

HORSE RACING

Part V. Racing Procedures

Chapter 63. Entries

§6353. Entry after Excused

A. The entry of any horse which has been excused by the stewards from starting due to physical disability or sickness shall not be accepted until the expiration of three calendar days after the day the horse was excused.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:437 (December 1976), LR 3:34 (January 1977), LR 4:280 (August 1978), amended LR 11:615 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 14:702 (October 1988), LR 21:

The domicile office of the State Racing Commission is

open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (LINC 8-635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, November 6, 1995, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Entry After Excused**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There are no costs to implement this action.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

This action does not effect revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

This action benefits owners and trainers by allowing a three calendar day wait instead of a three racing day wait before an ill or disabled horse may be entered effectively shortening the delay.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This action has no effect on competition and employment.

Paul D. Burgess
Executive Director
9510#081

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Racing Commission**

Field Less Than Eight (LAC 35:XIII.11115)

The State Racing Commission hereby gives notice that it intends to amend LAC 35:XIII.11115, "Field Less Than Eight," because of fewer available starters (horses) for entries in races.

NOTICE OF INTENT

Department of Economic Development Racing Commission

Purses from Video Poker (LAC 35:III.5736)

The State Racing Commission hereby gives notice that it intends to adopt LAC 35:III.5736 "Purses from Video Poker," to clarify R.S. 33:4862.23.

Title 35 HORSE RACING

Part III. Personnel, Registration and Licensing Chapter 57. Associations' Duties and Obligations §5736. Purses from Video Poker

A. In accordance with, and as defined by, R.S. 33:4862.23, monies in the Video Draw Poker Purse Supplement Fund shall be annually appropriated to the commission, and shall be allocated by the commission as follows:

1. Two-thirds of the total funds to all thoroughbred racing associations, proportionately distributed to each association based on the number of prior calendar year thoroughbred race days per track to the total number of prior calendar year thoroughbred race days. Such funds shall be used solely to supplement purses in accordance with a schedule or formula established by the purse committee of the Louisiana Thoroughbred Breeders Association, and only on Louisiana-bred thoroughbred races with purses not exceeding \$15,000.

2. One-third of the total funds to the Louisiana Quarter Horse Breeders Association to be used solely to supplement Louisiana-bred quarter horse purses.

B. The commission shall distribute the above thoroughbred funds based upon issuance of each condition book from each racing association. Quarter horse funds shall be distributed periodically based on requests from the Louisiana Quarter Horse Breeders Association for scheduled race days during active race meetings.

C. Each receiving association shall maintain funds in a separate interest-bearing bank account approved by the commission, with appropriate transfers made to the horsemen's bookkeeper for purse distribution. The purse fund account so designated shall be a separate account from all other sources of purse funds, and the source of funds shall be indicated as such on racing association daily racing programs (Louisiana Thoroughbred Breeders Association or Louisiana Quarter Horse Breeders Association).

D. Unused funds at the end of a race meeting shall be retained in such bank account, for use during the next race meeting, and shall be subject to the same restrictions as specified herein.

E. Adequate records, to the satisfaction of the commission, shall be maintained, and fund usage and

Title 35 HORSE RACING Part XIII. Wagering

Chapter 111. Trifecta Wagering §11115. Field Less Than Eight

A. Trifecta wagering will be permitted when the number of scheduled starters in a thoroughbred or quarter horse race is eight or more. A late scratch after wagering begins on that race will not cancel trifecta wagering.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended by the Department of Economic Development, Racing Commission, LR 18:366 (April 1992), LR 21:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (LINC 8-635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, November 6, 1995, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Paul D. Burgess
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Field Less Than Eight

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action does not effect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits primarily the betting public by allowing trifecta wagering on races with as few as eight starters (instead of nine).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
9510#079

David W. Hood
Senior Fiscal Analyst

records will be audited by the commission, with reports issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 33:4862.23.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Racing Commission, LR 21:

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4 p.m. and interested parties may contact Paul D. Burgess, Executive Director; C. A. Rieger, Assistant Director; or Tom Trenchard, Administrative Manager, at (504) 483-4000 (LINC 8-635-4000), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through Monday, November 6, 1995, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Paul D. Burgess
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Purses from Video Poker**

**I. ESTIMATED IMPLEMENTATION COSTS
(SAVINGS) TO STATE OR LOCAL
GOVERNMENTAL UNITS (Summary)**

There are no costs to implement this action.

**II. ESTIMATED EFFECT ON REVENUE
COLLECTIONS OF STATE OR LOCAL
GOVERNMENTAL UNITS (Summary)**

This action does not effect revenue collections (fiscal impact already provided for when R.S. 33:4862.23 was enacted).

**III. ESTIMATED COSTS AND/OR ECONOMIC
BENEFITS TO DIRECTLY AFFECTED PERSONS
OR NONGOVERNMENTAL GROUPS (Summary)**

This action benefits owners and breeders by stipulating fund distribution of monies in the Video Draw Poker Purse Supplement Fund, provided in R.S. 33:4862.23.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

This action has no effect on competition nor employment.

Paul D. Burgess
Executive Director
Analyst
1510#082

David W. Hood
Senior Fiscal

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741: Adult Education Program

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 has approved for advertisement, numerous amendments to the Adult Education Program policies and standards which are included in Bulletin 741, Louisiana Handbook for School Administrators. These proposed changes are for the purpose of clarification and/or to incorporate policies and practices that have been recommended for implementation in the statewide GED Testing Program and Adult Education Program. These proposed amendments, printed below, will be incorporated into Bulletin 741 along with the other numerous revisions being proposed for adoption.

The State Board of Elementary and Secondary Education convened a task force of local school personnel to review Bulletin 741. Their charge was to make recommendations that would clarify the implementation of policies and standards at the local level. These amendments, as a result of the recommendations of the task force, were also reviewed by State Department of Education personnel, BESE's Adult Education Advisory Council, and the Parish Superintendents Advisory Council prior to approval by BESE.

Adult Education Program

1.124.00 The Adult Education program shall be administered by the State Department of Education (SDE) and operated by the local governing authority.

Refer to *Louisiana State Plan for Adult Education*, and R.S. 17:14 for administration of the program

Requirements for Taking the General Educational Development (GED) Test

1.124.02 A student shall be 17 years of age or older, in order to be authorized to be administered the General Educational Development (GED) Test. A married or emancipated individual may be permitted to take the General Educational Development (GED) test at 16 years of age and above. A student who has attained the age of 16 and qualified to take the test of GED may request an age waiver if a bona fide hardship exists. Such waiver must be approved by the Board of Elementary and Secondary Education (BESE) prior to taking the GED test. Individuals 15 years of age and below shall not be permitted to take the GED test under any circumstances.

1.124.03 To qualify for recommendation to take the General Educational Development (GED) Test, a student shall be a veteran or member of the armed forces or shall enroll in an adult education program and take the California Achievement Test or the Test of Adult Basic Education at the high school level. An average score of

12.9, with no subject matter area below 12.0, shall be attained by the individual to be authorized to take the General Educational Development (GED) Test. Certifying qualifying scores on the California Achievement Test or the Test of Adult Basic Education is the responsibility of the adult education supervisor in the local school district.

1.124.04 The test of General Educational Development (GED) may not be administered to candidates who are enrolled in an accredited high school, or have graduated from an accredited high school, or have received a high school equivalency diploma.

Requirements for Passing the General Educational Development (GED) Test

1.124.05 A student shall earn a standard score of 40 or above on each of the five sections of the test of General Educational Development (GED). If any one or more of the scores on the initial testing is below 40, the student shall earn a minimum average score of 45 on all sections.

1.124.06 The same form shall be used on all five tests when a student is being administered the General Educational Development (GED) Test.

Requirements for Retesting on the General Educational Development (GED) Test.

1.124.07 A student other than a veteran or member of the armed forces shall receive instruction in the area(s) of deficiency until such time as the instructor certifies the student to be proficient in the failed section(s). A veteran or member of the armed forces may receive instruction if the individual desires. A student may not be retested before 30 days have elapsed since the student last tested.

1.124.08 Retesting shall be done on a form of the test different from the one originally used in testing. No form may be used a second time. If more than one test is being repeated by a student, all retests shall be on the same form.

1.124.09 The department will retain records of a student's unsuccessful attempts to pass the GED test for only five years following the individuals last attempt to pass the test. The student must retest on all five sections of the GED test should the five years elapse.

1.124.10 The student shall score a minimum of 40 on each of the retested sections.

Issuance of Equivalency Diplomas

1.124.11 A high school equivalency diploma will be issued from a state approved high school after the student has successfully completed the test of General Educational Development (GED).

1.124.12 The high school equivalency diploma shall be issued from the last high school the student attended, the high school nearest the student's legal residence, the high school nearest to the publicly supported institution of higher learning to which the student is academically admissible, or the high school which has been officially designated by a local school system for that purpose.

1.124.13 High school equivalency diplomas shall be issued only through state approved high schools, and the student shall be considered a graduate of the school through which the diploma is issued.

1.124.14 A Louisiana resident who successfully completes the General Educational Development (GED) test at an official out-of-state GED testing center may be entitled to receive an equivalency diploma provided that an official copy of the GED test results and qualifying scores on the California Achievement Test or the Test of Adult Basic Education are submitted for review to the Director of the Bureau of Adult and Community Education of the Louisiana Department of Education, and the student meets all other qualifications to receive an equivalency diploma. Veterans do not need to submit qualifying scores.

1.124.15 To be eligible for an equivalency diploma based on results of the General Educational Development (GED) test, a veteran or member of the armed forces shall be a legal resident of Louisiana for six consecutive months or have formerly attended a Louisiana school.

1.124.16 A student that has earned an equivalency diploma is considered a Louisiana high school graduate in every respect.

1.124.17 A student that has received a high school equivalency diploma may return to a regular high school program but will not be allowed to participate in athletic activities.

1.124.18 Public high school equivalency diplomas shall be signed by the State Superintendent of Education, the President of the Board of Elementary and Secondary Education, the local superintendent of schools, the local school board president, and the local high school principal.

AUTHORITY NOTE: Promulgated in accordance with R. S. 17:6, 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 22:

Interested persons may submit comments on the proposed policies until 4:30 p.m., December 8, 1995 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 741: Adult Education Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no implementation cost to local governmental units. It is estimated that at least seven pages of Bulletin

741 will need to be printed and disseminated. The estimated cost at \$100 per page is \$700.

BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state and local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or nongovernmental groups. A 16-year-old may take the GED if they are not married but can prove a bona fide hardship exists.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9510#055

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706: Discipline Procedures

In accordance with R.S. 49:950 et. seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act, Section 459 (Discipline Procedures) as stated below:

Section 459. Discipline Procedures

* * *

B. Procedures for Exclusion of Students with Disabilities and Students with Suspected Disabilities

* * *

2. Amend to read:

For exclusions of more than nine consecutive days, or when a pattern of exclusions has occurred, or upon the fourth suspension.

Delete the phrase:

"or upon reaching the maximum number of unexcused absences due to suspensions."

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941-1958.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:

This amendment was adopted as an emergency rule, effective May 25, 1995 and printed in the June, 1995 issue of the *Louisiana Register*.

Interested persons may submit comments on the proposed policy until 4:30 p.m., December 9, 1995 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-Discipline Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Proposed are revisions to Bulletin 1706, The Regulations for Implementation of the Exceptional Children's Act in the area of discipline. The discipline revisions change the special education regulations to be in compliance with federal and state law. Estimated implementation costs to state governmental unit for the first year is \$200 for printing and postage. There is no estimated implementation costs or savings to LEAs.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or benefits are estimated from this proposed change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition from this proposed change.

Marlyn Langley
Deputy Superintendent
Management and Finance
9510#054

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Special Education Advisory Council (LAC 28:I.105)

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 accepted and approved for advertisement, the recommendations of the Ad Hoc Committee studying the composition and selection of the Special Education Advisory Council. This is an amendment to the LAC, Title 28 as stated below. This policy shall replace all current and conflicting policies on the Special Education Advisory Council whether they be in the Special Education State Plan, Bulletin 1706 or other BESE approved bulletins, policies or guidelines governing special education programs and funding.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 1. Organization

§105. Board Advisory Councils

* * *

B. Composition

* * *

2. Special Education Advisory Council

a. Creation. Pursuant to federal law and regulations and to state law, the Special Education Advisory Council is created to serve the state board in its constitutional functions to supervise and control public schools including programmatic and budgetary responsibility for all funds appropriated for special education programs.

b. Membership. The state advisory panel will be composed of persons involved in or concerned with the education of children with disabilities will include one persons representative of each of the following categories except for category five which shall have two representatives:

- i. individuals with disabilities;
- ii. teachers of children with disabilities;
- iii. parents of children with disabilities;
- iv. state and local educational officials;
- v. special education program administrators (two);
- vi. regular classroom teachers;
- vii. representatives of recipients of special education and related services and their families;
- viii. representatives of advocate agencies for the disabled;
- ix. vocational-technical schools; and
- x. colleges and universities.

C. Appointments. As provided in R.S. 17:1954(A), the advisory council shall be appointed by the Department of Education with the approval of the state board. Each board member shall recommend to the superintendent, one name to serve on the advisory body from one of the membership categories to be chosen on the basis of lots drawn by board members as vacancies occur.

D. Procedures. The Special Education Advisory Council shall conduct its meetings according to rules of procedures for state board advisory councils as found in §105 of this Code and in particular those policies relating to membership terms, selection of officers, filling of vacancies, payment of expenses, general functions, quorum, attendance, procedures for the conduct of meetings, reporting, and staffing by the state board and the State Department of Education.

E. Functions

1. As stated in federal regulations the functions of the advisory council shall be to:

a. advise the state board and the Department of Education of unmet needs within the state in the education of children with disabilities;

b. comment publicly on the Special Education State Plan and on rules and regulations proposed for issuance by the state regarding the education of children with disabilities and the procedures for distribution of funds under federal laws;

c. assist in developing and reporting such information and evaluations as may assist federal authorities in the performance of their legal responsibilities.

2. As stated in R.S. 17:1945(B) of the Louisiana Revised Statutes, the advisory council shall review rules and regulations governing the Education of Exceptional Children Act.

3. As stated in state board policy in LAC 28:I.105(G), the functions of the council are advisory in nature and considerations shall include items referred by the state board as well as items initiated by the council and approved by the board through its regular procedures.

4. As stated in state board policy LAC 28:I.1711(E), the advisory council shall perform the duties related to disbursal of certain special education discretionary funds.

* * *

AUTHORITY NOTE: Promulgated in accordance with 20 USC 1413(a)(12); 34 C.F.R. Part 300, Sec. 300.650-653; R.S. 17:1954.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 22:

Interested persons may submit comments until 4:30 p.m., December 9, 1995 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: Special Education Advisory Council

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

This rule will place in the Louisiana Administrative Code for the first time, the Special Education Advisory Council. 1994-95 expenses associated with the Advisory Council were \$5,325 for travel, meals and lodging and are funded through the Individuals with Disabilities Education Act (Federal Funds). It is expected that these expenses will continue to be incurred in succeeding years.

Estimated cost for printing this policy and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$200.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There is no effect on revenue collections of state or local governmental units associated with this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There are no costs or economic benefits to directly affected persons or nongovernmental units associated with this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no effect on competition and employment associated with this rule.

Carole Wallin
Executive Director
9510#053

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Quality Assurance Procedures
(LAC 33:III.6115 and 6117)(AQ128)**

(Editor's Note: The above noted document was inadvertently published with the incorrect Division title on page 968 of the September, 1995 Louisiana Register. The correct Division is the Air Quality Division.)
9510#065^

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

**Administrative Procedures - Confidential Information
(LAC 33:I.Chapter 5; 33:III.107 and 517; 33:V.319 and
1113; 33:VII.309; 33:IX.301, 309, 315 and 1507;
33:XV.324)(OS14)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend LAC 33:I.Chapter 5; III.107.E, 517.F; V.319, 1113.D; VII.309; IX.301.N, 309.D, 315.F, 1507.A; XV.324.F-G (OS14).

The proposed rule establishes a consistent set of procedures for departmental management of information submitted as confidential. R.S. 30:2030 (B) requires the department to adopt regulations for processing requests for confidentiality. The proposed rule would improve existing rules by adding clarification, improving consistency, and consolidating existing programmatic (solid waste, hazardous waste, air quality and water quality) regulations into one conveniently located chapter.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3), therefore, no report regarding environmental/health benefits and social/economic costs is required.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

**Subpart 1. Departmental Administrative
Procedures**

**Chapter 5. Confidential Information Regulations
§501. Scope**

Department of Environmental Quality records and information obtained under the Louisiana Environmental Quality Act (hereinafter called "the Act"), or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public, unless confidentiality is requested in writing and such information is determined by the administrative authority to require confidentiality. Such information may be classified as confidential by the administrative authority if the secretary makes a written determination that confidentiality is necessary to:

1. prevent impairment of an ongoing investigation or prejudice to the final decision regarding a violation; or

2. protect trade secrets, proprietary secrets and information, and commercial or financial information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§503. Request for Confidentiality

A. Anyone outside the department requesting confidentiality shall provide to the administrative authority a written statement indicating the reasons for asserting confidentiality. This claim of confidentiality shall state:

1. the measures taken to guard against undesired disclosure of the information to others;
2. the extent to which the information has been disclosed to others and the precautions taken in connection therewith;
3. whether disclosure of the information would be likely to result in substantial harmful effects in the competitive market, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects; and
4. the period of time for which confidential treatment is desired.

B. Any person submitting information to the administrative authority for which a confidentiality claim is asserted shall follow the procedures outlined below:

1. a cover sheet shall be attached to the information, which has been conspicuously labeled with the word "CONFIDENTIAL." Each page or any item (e.g., pictures, maps, video tapes, computer disks, etc.) that contains alleged confidential information shall also be clearly labeled;
2. if possible, confidential information shall be segregated to facilitate identification and handling. The confidential information shall be specifically referenced as appropriate in the nonconfidential document; and
3. the confidential request and confidential information shall be submitted to the department's Office of Legal Affairs and Enforcement, Legal Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§505. Agency Review of Confidential Information

A. Within 21 days from the date of receipt of the claim of confidentiality, the secretary shall issue a written notice of determination by certified mail to the submitter.

B. Specific categories of information that shall be denied confidentiality include:

1. air emission data;
2. any permit or portion of a permit issued to a source in accordance with LAC 33:III.507;
3. effluent and discharge data to surface waters and groundwaters;
4. location and identification of any buried waste;

5. name and address of any license, registration or permit applicant or permittee; and

6. all contents and information contained within and required by a NPDES, LPDES, and other water discharge permit application or permit.

C. The notice of determination shall become final and not subject to further administrative review unless, no later than 30 days after receipt of this document, the submitter files a written request for a hearing.

D. Information submitted under a claim of confidentiality shall be held as confidential until a final determination has been made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§507. Authorized Agent Accessibility

In the event a claim of confidentiality is granted, such confidentiality shall not apply to the necessary use of the information by duly authorized officers or employees of the state or federal government in carrying out their responsibilities under the act or applicable federal law. Any officer or employee of the state or federal government, other than department employees, who seeks access to such information must be duly authorized by the administrative authority. The administrative authority shall make a determination to grant such authorization based on a written request by such person that shall specify the requestor's name, affiliation, and the need for access to the information based on the act or applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

§509. Release of Confidential Information

A. The administrative authority shall remove confidential information from its files and return it to the submitter when such information is no longer necessary or required for the purposes of the act, these regulations, or any order or under the terms and conditions of any license, registration, or permit.

B. Files declared confidential as part of an investigation shall be returned to the public record files upon conclusion of the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

Part III. Air

Chapter 1. General Provisions

§107. Investigations—Authority

Pursuant to the provisions of R.S. 30:2011, the administrative authority shall make such investigations as are necessary and proper to carry out the purposes of the

Louisiana Environmental Quality Act and in connection therewith:

* * *

[See Prior Text in A - D]

E. Confidentiality of Information. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, LR 22:

Chapter 5. Permit Procedures

§517. Permit Applications and Submittal of Information

* * *

[See Prior Text in A - E.8]

F. Confidential Information. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

* * *

[See Prior Text in G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:

**Part V. Hazardous Waste and Hazardous Material
Subpart 1. Department of Environmental Quality-
Hazardous Waste**

**Chapter 3. General Conditions for Treatment,
Storage, and Disposal Facility Permits
§319. Confidentiality**

Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:84 (February 1987), amended by the Office of the Secretary, LR 22:

**Chapter 11. Generators
§1113. Exports of Hazardous Waste**

* * *

[See Prior Text in A - D.4]

5. The administrative authority will provide a complete notification to the receiving country and any transit countries. A notification is complete when the administrative authority receives a notification which the administrative authority determines satisfies the requirements of LAC 33:V.1113.D.1. Where a claim of confidentiality is asserted with respect to any notification information required by LAC 33:V.1113.D.1, the administrative authority may find the notification not

complete until any such claim is resolved in accordance with LAC 33:I.Chapter 5.

* * *

[See Prior Text in D.6 - H.2]

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 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of the Secretary, LR 22:

Part IX. Water Quality Regulations

Chapter 3. Permits

§301. Scope

* * *

[See Prior Text in A - M.2]

N. Confidentiality of Information. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:

§309. Renewal and Termination

* * *

[See Prior Text in A - C]

D. During all renewal or termination proceedings the entire application and/or permit is open for comment in a public hearing, subject to confidentiality in accordance with LAC 33:I.Chapter 5.

* * *

[See Prior Text in E - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:

§315. Public Information

* * *

[See Prior Text in A - E.1.b]

F. All recorded information (completed permit application forms, fact sheets, draft permits or any public document) not classified as confidential information in accordance with LAC 33:I.Chapter 5 will be made available to the public for inspection and copying pursuant to the following conditions:

1. during normal office hours;
2. under the observation and supervision of a member of the staff of the Office of Water Resources;
3. copies of compiled records and information will be made available within a reasonable amount of time upon written request at a cost in accordance with established department policy; and
4. no recorded information shall be removed from the office, except as provided herein.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:

Chapter 15. Water Quality Certification Procedures
§1507. Procedures for Issuance of Water Quality Certification

[See Prior Text in A - A.6]

7. Confidentiality of Information. Any information submitted by the applicant, as required by an application for certification, and declared as confidential by the applicant shall be handled in accordance with LAC 33:I.Chapter 5.

[See Prior Text in A.8 - H.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material
Subchapter D. Specific Licenses
§324. Filing Application for Specific Licenses

[See Prior Text in A - E]

F. Applications and documents submitted to the division shall be available for public inspection unless the administrative authority makes a written determination of confidentiality in accordance with LAC 33:I.Chapter 5.

G. If the department determines that any material should not be afforded confidentiality, the division shall issue a written denial of the request to the requestor in accordance with LAC 33:I.Chapter 5.

[See Prior Text in H - K]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation, Radiation Protection Division, LR 18:34 (January 1992), amended LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program
§309. Confidentiality

Provisions for confidential information may be found in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 22:

A public hearing will be held on November 27, 1995, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS14. Such comments should be submitted no later than December 4, 1995, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number (504)765-0486.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Administrative Procedures -
Confidential Information**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on implementation costs to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant effect of this proposed rule on costs or benefits to directly affected persons is anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect of this proposed rule on competition and employment is anticipated.

James B. Thompson, III
Assistant Secretary
9510#044

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Actuarial Apportionment of Cost of Living Adjustments

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity ("Fund"), pursuant to R.S. 11:3363(F), proposes to repeal rules and regulations applicable to actuarial apportionment of cost of living adjustments between members retiring under the new system and their beneficiaries due to the recent passage of legislation granting cost of living increases in their own right to widows and beneficiaries pursuant to R.S. 11:3382.

Rule I. Definitions

Repealed

Rule II. Apportionment of Cost of Living Adjustments ("COLAs")

Repealed

Rule III. Calculation of COLA Apportionment

Repealed

Rule IV. Application of COLA Apportionment

Repealed

Rule V. Effective date

Repealed

Rule VI. Sunset Provision

Repealed

A public hearing will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity on November 3, 1995 at 329 S. Dorgenois Street, New Orleans, LA 70119.

Any interested party may submit data, views or arguments orally or in writing concerning these rules or may make inquiries concerning the repeal of these rules to Richard J. Hampton, Jr., Secretary-Treasurer of the Board of Trustees, 329 S. Dorgenois Street, New Orleans, LA 70119.

William M. Carrouché
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Apportionment of Cost of Living Adjustments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs to the state or local governmental units due to the repeal of the rule for the apportionment of cost of living adjustments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Repeal of the rule for apportionment of cost of living adjustments will have no effect whatever on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no economic benefit to any directly affected persons or nongovernmental groups, nor will there be any cost attributable to these parties.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The repeal of the rule for apportionment of cost of living adjustments will have no effect on competition and employment.

Marie Healey
Fund Counsel
9510#090

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Uniform Payroll

Payroll Deductions (LAC 4:III.Chapter 1)

In accordance with R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Uniform Payroll is proposing to adopt the following rule amending the regulations governing payroll deductions. The purpose of the amendment is to establish procedures for a systematic review and evaluation of benefits provided, employee utilization of benefits, and update forms associated with the process.

Copies of the full text of this proposed rule may be obtained from the Office of Uniform Payroll, 1051 North Third Street, Baton Rouge, LA, telephone (504) 342-0713 or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, telephone (504) 342-5015.

Any interested person may submit written comments regarding the contents of this proposed rule to Frances S. Toney, Director, Office of State Uniform Payroll, Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5 p.m., November 30, 1995.

Whit J. Kling
Deputy Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Payroll Deductions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

It is not anticipated that this change will have measurable impact to state agency fiscal operations.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There should be no effect on revenue collections for state or local governments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Employees would benefit in the knowledge that a reasonable review of need, products offered, and services provided has taken place. Vendors should appreciate benefit of a structured review and evaluation.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

Provide a better level of comfort with the products provided. Provide vendors a more equitable review.

Whit J. Kling
Deputy Undersecretary
9510#060

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Chiropractic Examiners**

Professional Conduct; Ethics; Peer Review;
Illegal Payments; and Financial Interests
(LAC 46:XXVII.Chapters 3-9)

Pursuant to R.S. 49:950 et seq., the Board of Chiropractic Examiners intends to adopt additional rules and amend existing rules on the following subjects:

1. Advertising practices of chiropractors;
2. Peer review committee;
3. Complaints;
4. X-ray proficiency certificates;
5. Internships;
6. Payments for patient referrals;
7. Specialty register.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXVII. Chiropractors

Chapter 3. Professional Conduct

§307. Advertising Practices

A. False, deceptive or misleading advertising is prohibited.

B. Statements in advertising which claim that specific physical illnesses ailments or symptoms are alleviated by chiropractic care must be supported by clinical or scientific literature generally recognized by the chiropractic profession. The board may require the chiropractor making such assertions to provide the reference supporting the advertising claim.

C. Testimonials may be used if the word "ADVERTISEMENT" in capital letters of larger type size than the largest text of the testimonial appears directly over the testimonial. The doctor is responsible for any false, deceptive or misleading statements in the testimonial.

D. Advertisement may offer free goods or services or discounts in connection with chiropractic care only if the usual charge for those goods or services and the type of goods or services and the type of goods or services which are free or discounted are included in the advertising. In the case of print advertising the usual charges for the offered good or services must appear in bold print of the same or larger type size as the offer. In the case of television or radio advertising the ad must clearly state, verbally, the usual charges for the offered goods or services.

1. The doctor must also provide a disclosure statement to be signed by the patient which explains:

a. specifically what services or goods are free or discounted;

b. what services or goods are not included in the free or discounted services or goods offered in the advertisement;

c. that additional services or goods which are subject to a charge shall not be rendered until such charges are disclosed in writing to the patient and that any services or goods provided prior to such written disclosure are free.

2. The signed disclosure statement must be provided to any third party liable for payment by inclusion of the disclosure statement with the first submission of a claim for payment for services.

3. This rule shall not be construed to relate to the negotiation of fees between a chiropractor and a patient or managed care organization or to prohibit the rendering of chiropractic services pro bono.

E.1 In all circumstances covered by Subsection D of this Section, and after services or goods have been provided, the chiropractor shall provide the patient with a written statement itemizing the services or goods provided and the charges for each service or item. The patient shall be given the itemized statement even if the patient has executed an assignment of insurance benefits or payment is anticipated from a third party.

2. The chiropractor must notify any third party liable for payment if any co-payment or deductible has been waived or met by a certificate issued by the chiropractor or an agent of the chiropractor. Such notification must be in writing and submitted with the first submission of a claim for payment for services.

F. Any advertisement that mentions automobile liability insurance shall state that "policy limitations apply" and must be in bold print. Television or radio advertisements must verbally state that policy limitations apply.

G. Free X-rays

1. A chiropractor shall not advertise "free x-rays" unless the advertisement states that:

- a. the x-rays shall be taken only if found necessary;
- b. more than one x-ray is necessary for diagnostic purposes;

2. Free x-rays shall include a minimum of two views.

3. Additional x-rays must meet the disclosure requirements of §307.D.

H. Computer-generated or live, unsolicited telephone canvassing to prospective new patients is prohibited.

I. Cash payments for patient referrals is prohibited.

J. Any violation of this section shall constitute grounds for disciplinary action or penalty by the board.

K. If any part of these rules or any rule herein is declared unlawful and/or unconstitutional such determination shall not affect the validity of any other part or rule herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976), amended LR 5:174 (July 1979), LR 13:343 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:963 (November 1989), LR 22:

§316. Internships

Certificates of internship must be displayed in a conspicuous place in the office in which the intern practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2806.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:

§317. X-ray Proficiency Holders

A. ...

B. Any holder of said proficiency certificate must register annually with the board on or before July 31, beginning in 1996. The board shall maintain a list of all X-ray proficiency certificate holders. Failure to register with the board on an annual basis shall result in removal of that person's name from the board's list of X-ray proficiency certificate holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners,

LR 13:344 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:

§318. Specialty Register

A. Any Doctor of Chiropractic in the state of Louisiana who holds himself or herself out to the public as being a specialist in any area must register with the Louisiana Board of Chiropractic Examiners.

B. Only those licensees holding the final certification in post-graduate training and certification programs recognized by the board may hold themselves out to the public as possessing special knowledge, skills or training. Any advertisement which states that a licensee has special training or skills or is certified in a specialty not recognized by the board is engaged in deceptive and misleading advertising practices.

C. The use of the terms "certified" in or by, or the use of letters indicating a degree or certification on stationary, letterhead, business cards or other such publication is considered advertising for the purposes of this section. Generally recognized academic credentials such as BA, BS, MS, JD, MD, Ph.D., ETC. are excepted from this rule when awarded by a college or university fully accredited by an association recognized by the Department of Health, Education and Welfare.

1. Specialty training must meet the following criteria to qualify for Registry inclusion. The course of study must:

- a. be conducted under the auspices of and taught by the post-graduate faculty of a chiropractic college fully accredited by the Council on Chiropractic Education;
- b. consist of a minimum of 300 hours;
- c. require completion of a certification examination given by a board independent of the entity which taught the course; and
- d. meet such other criteria as the board deems appropriate.

2. The Louisiana Board of Chiropractic Examiners currently (December, 1995) recognizes the following specialties for recognition and listing in the Board's Specialty Registry:

- a. Diplomate of the American Board of Chiropractic Nutrition (DABCN);
- b. Certified Chiropractic Sports Physicians (CCSP);
- c. Diplomate, American Board of Chiropractic Orthopedists (DABCO) or Fellow of the Academy of Chiropractic Orthopedists;
- d. Diplomate, American Chiropractic Board of Roentgenologists (DACBR);
- e. Diplomate, American Board of Chiropractic Internists (DABCI);
- f. Diplomate, American Board of Chiropractic Pediatrics (DABCP);
- g. Diplomate of the American Board of Chiropractic Neurology (DABCN); or

h. Diplomate of the American Chiropractic Academy of Neurology (DACAN).

3. The National Board of Chiropractic Examiners engages in testing preliminary to testing for basic licensure. It does not engage in specialty testing. The use of the designation Diplomate of the National Board of Chiropractic Examiners, or any derivative thereof, may give the false impression of certification or credentials beyond that required of all chiropractic licensees and is considered deceptive and misleading by the Louisiana Board of Chiropractic Examiners.

4. Any additional specialties which conform to these standards may be recognized by declaratory statement by the board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2801.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 18:1378 (December 1992), amended LR:

Chapter 5. Due Process Procedures for Ethics Violations

§511. Processing Complaints and Inquiries

A. ...

1. ...

2. If the information in the complaint is insufficient, the board may request further information by either written correspondence or an informal inquiry.

B. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 10:327 (April 1984), amended LR 13:344 (June 1987), amended by the Department of Health and Hospitals LR 22:

Chapter 7. Peer Review Committee

§701. Purpose and Composition of Committee

A. - B. ...

C. Purpose. The purpose of the committee is to review, upon request of any party involved, any matter relative to the appropriateness of care rendered by any Doctor of Chiropractic licensed to practice and practicing in the state of Louisiana.

D. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 22:

§703. Procedure for Review

A. - D.2. ...

E. Appeals Process. An appeal of any decision rendered by the Peer Review Committee shall, at the option of the person appealing either be:

1.a. - f. ...

2. Placed in Binding Arbitration

a. Arbitration shall be conducted by a committee of three chiropractors; one chosen by the treating

chiropractor, one by the insurer, patient, or whoever constitutes the opposite party in dispute, and the third chiropractor chosen by the originally selected two. If no agreement can be reached by the original two chiropractors as to the third, within 10 days of their appointment, the board of examiners shall appoint the third chiropractor within 30 days of receiving notice of such lack of agreement. All parties involved shall agree in advance to abide by the decision of the arbitration committee.

b. - h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:964 (November 1989), amended LR 17:968 (October 1991), LR 22:

Chapter 9. Illegal Payments; Required Disclosure of Financial Interests

Subchapter A. (Reserved)

§901. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a chiropractic physician's financial interest in another health care provider to whom or to which the chiropractic physician refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Chiropractic physicians owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, prescribing, recommending, or referring patients for health care items and services, without regard to personal financial recompense. The purpose of these rules and the laws they implement is to prevent payments by or to a chiropractic physician as a financial incentive for the referral of patients to a chiropractic physician or other health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:

§903. Definitions and Construction

A. Definitions. As used in this Chapter:

Board—the Louisiana State Board of Chiropractic Examiners.

Chiropractic Physician—a Doctor of Chiropractic pursuant to R.S. 37:2801 et seq.

Financial Interest—an ownership or investment interest established through debt, equity or other means and held, directly or indirectly, by a chiropractic physician or a member of the chiropractic physician's immediate family,

or any form of director or indirect remuneration for referral.

Group Practice—a group of two or more chiropractic physicians or other health care providers legally organized as a general partnership, registered limited liability partnership, professional corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each chiropractic physician who is a member of the group provides substantially the full range of services which the chiropractic physician routinely provides, including consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel;

b. for which substantially all of the services of the chiropractic physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined;

d. in which no chiropractic physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the chiropractic physician, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such chiropractic physician;

Health Care Item—any substance, product, device, equipment, supplies or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider—any person licensed by a department, board, commission or other agency of the state of Louisiana to provide, or which does in fact provide, preventive, diagnostic, or therapeutic health care services or items.

Immediate Family—as respects a chiropractic physician, the chiropractic physician's spouse, children, parents and siblings.

Investment Interest—a security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership, bonds, debentures, notes, or other debt instruments.

Payments—the tender, transfer, distribution, exchange or provision of money, goods, services, or anything of economic value.

Person—and includes a natural person or a partnership, corporation, organization, association, facility, institution, or any governmental subdivision, department, board, commission or other entity.

Remuneration for Referral—any arrangement or

scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a chiropractic physician, or an immediate family member of such a chiropractic physician, and other health care provider which is intended to induce referrals by the chiropractic physician to the health care provider or by the health care provider to the chiropractic physician, other than any amount paid by an employer to an employee who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

B. Construction. Masculine terms whatsoever used in this Chapter shall be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:

Subchapter B. Illegal Payments

§905. Prohibition of Payments for Referrals

A. A chiropractic physician shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the chiropractic physician for the furnishing or arranging for the furnishing of any health care item or service.

B. A chiropractic physician shall not knowingly and willfully solicit, receive or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:

§907. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §905 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals,

items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

B. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the Secretary of the United States Department of Health and Human Services, through the Office of the Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 C.F.R. §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §905 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22: §909. **Effect of Violation**

Any violation of or failure of compliance with the prohibitions and provisions of §905 of this Chapter shall be deemed a violation of the Chiropractic Practice Act, R.S. 37:2801 et seq., as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a chiropractic physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22: **Subchapter C. Disclosure of Financial Interests in**

Third-Party Health Care Providers **§911. Required Disclosure of Financial Interest**

Mandatory Disclosure. A chiropractic physician shall not make any referral of a patient outside the chiropractic physician's group practice for the provision of health care items or services by another health care provider in which the referring chiropractic physician has a financial interest (as defined by §903.A), unless, in advance of any referral,

the referring chiropractic physician discloses to the patient, in accordance with §915 of this Chapter, the existence and nature of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22: §913. **Prohibited Arrangements**

Any arrangement or scheme, including cross-referral arrangements, which a chiropractic physician knows or should know has a principal purpose of ensuring or inducing referrals by the chiropractic physician to another health care provider, which, if made directly by the chiropractic physician would be a violation of §911, shall constitute a violation of §911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22: §915. **Form of Disclosure**

A. Required Contents. The disclosure required by §911 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making referral, and shall include:

1. the chiropractic physician's name, address and telephone number;
2. the name and address of the health care provider to whom the patient is being referred by the chiropractic physician;
3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and
4. the existence and nature of the chiropractic physician's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §911 of this Chapter may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of the Disclosure of Financial Interest form, which may be obtained from the Board of Examiners, shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22: §917. **Effect of Violation; Sanctions**

A. Effect of Violation. Any violation of or failure of compliance with the prohibitions and provisions of §911 of this Chapter shall be deemed a violation of the Chiropractic Practice Act, R.S. 37:2801 et seq., as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by

a chiropractic physician culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by §917, upon proof of violation of §911 by a chiropractic physician, the board may order that all or any portion of any amounts paid by a patient, for health care items or services furnished upon a referral by the chiropractic physician in violation of §911, be refunded by the chiropractic physician to such patient and/or third-party payor, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third party-payors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1745.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 22:

Inquiries may be made to Dr. Salvatore R. Giangrosso, at 5800 One Perkins Place, Suite 5-C, Baton Rouge, LA 70808.

Interested persons may present their views in writing or at a public hearing on November 29, 1995 at 10 a.m. at the above address in Baton Rouge, LA.

Dr. Salvatore R. Giangrosso
Board President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Conduct; Ethics; Peer Review; Illegal Payments; and Financial Interests

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated costs to implement these rules other than publishing.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no change in revenue collections by state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs and benefits are nonquantifiable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no effect on competition or employment that is quantifiable.

James M. Ross
Assistant Attorney General
510#047

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Dentists-Advertising/Soliciting and Licensure
Credentials
(LAC 46:XXXIII.301 and 306)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301 "Advertising and Soliciting by Dentists" and LAC 46:XXXIII.306 "Requirements of Applicants for Licensure by Credentials."

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - J.4. ...

K. Appendages. In addition to those appendages required by law pertaining to one's business entity such as professional dental corporation (P.C.) or dental limited liability company (L.L.C.), dentists may only use those abbreviations or appendages as specified under R.S. 37:771 or other degrees earned from accredited colleges or universities under their names. Fellowships, awards, membership in academies, or non-degreed boards may be spelled out in their entirety after one's name, but not appended to the name so as to avoid confusion to the consumer.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:

§ 306. Requirement of Applicants for Licensure by Credentials

A. 1. - 16. ...

17. Possesses a current certificate in Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course.

A. 18. - 20. ...

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 18:739 (July

1992), amended LR 21:571 (June 1995), LR 22:

Interested persons may submit written comments on these proposed rules 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. No preamble has been prepared.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Advertising/Soliciting and Licensure
Credentials**

**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
NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9510#074

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Dental Assistants Expanded Duty Curriculum
Development (LAC 46:XXXIII.503)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S.37:751, et seq., and particularly

R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.503 "Guide to Curriculum for Expanded Duty Dental Assistants."

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 5. Dental Assistants

**§503. Guide to Curriculum Development for
Expanded Duty Dental Assistants**

A. Cognitive Objectives

1. - 2.1 ...

m. Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. This course may count for three hours of instruction provided this course has been successfully completed within six months prior to certification.

n. - o. ...

AUTHORITY NOTE: Promulgated in accordance with R. 5. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:

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. No preamble has been prepared.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Dental Assistants Expanded Duty
Curriculum Development**

**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 NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9510#077

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Dental Hygienists Duties, Licensure and Advertising
(LAC 46:XXXIII.701, 706, 708)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:951, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.701, Authorized Duties; LAC 46:XXXIII.706, Requirements of Applicants for Licensure by Credentials; and adopt LAC 46:XXXIII.708, Advertising by Dental Hygienists.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

CHAPTER 7. Dental Hygienists

§701. Authorized Duties

A. - B. 13. ...

14. Place and remove tetracycline-impregnated fibers.

15. Place and remove electronic anesthesia (TENS unit) devices.

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 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:

§706. Requirements of Applicants for Licensure by Credentials

A. ...

1. - 15 ...

16. Possesses a current certificate in Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course.

17. - 18. ...

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 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:

§708. Advertising by Dental Hygienists

A. Dental hygienists may advertise their practice of dental hygiene provided it is in conjunction with advertising by a dentist who employs him or her. No individual advertisement by a dental hygienist is allowed.

B. Dental hygienists may use the appendage "R.D.H." or other degrees earned from accredited colleges or universities after their names. Fellowships, awards, membership in academies, or non-degreed boards may be spelled out in their entirety after one's name, but not appended to the name so as to avoid confusion to the consumer.

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 22:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 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.

No preamble has been prepared.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Hygienists Duties, Licensure and Advertising

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 NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9510#075

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Dentists and Dental Hygienists Continuing Education
(LAC 46:XXXIII.1611 and 1613)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S.37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1611 "Continuing Education Requirements for Relicensure of Dentists," LAC 46:XXXIII.1613 "Continuing Education Requirements for Relicensure of Dental Hygienists," and LAC 46:XXXIII.1615 "Approved Courses."

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 16. Continuing Education Requirements

**§1611. Continuing Education Requirements for
Relicensure of Dentists**

A. - C.2. ...

3. Three credit hours for successful completion of Cardiopulmonary Resuscitation Course "C" Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course.

D. - I. ...

J. Dentists who are on staffs of hospitals accredited by the Joint Commission on Accreditation of Healthcare Organizations may receive continuing education credit for those continuing education courses provided by said hospital when those courses are approved by the American Medical Association.

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 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:

**§1613. Continuing Education Retirements for
Relicensure of Dental Hygienists**

A. - C.2. ...

3. Three credit hours for successful completion of

Cardiopulmonary Resuscitation Course "C" Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course.

D. - I. ...

J. Dental hygienists who are on staffs of hospitals accredited by the Joint Commission on Accreditation of Healthcare Organizations may receive continuing education credit for those continuing education courses provided by said hospital when those courses are approved by the American Medical Association.

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 20:662 (June 1994), amended LR 21:570 (June 1995), LR 22:

§ 1615. Approved Courses

A.1.- 8. ...

9. The American Red Cross as a provider of the cardiopulmonary resuscitation course "Red Cross Professional Rescue Course."

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 20:662 (June 1994), amended LR 22:

Interested persons may submit written comments on these proposed rules 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. No preamble has been prepared.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Dentists and Dental Hygienists Continuing
Education**

**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 NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9510#078

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Hearing Notice/Hearing Subpoena (LAC 46:XXXIII.907 and 919)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.907 "Notice of Hearing," and LAC 46:XXXIII.919 "Subpoenas for Hearing."

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 9. Formal Adjudication

§907. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §903 and §905 of this Chapter, the board shall schedule the complaint for hearing before the committee not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the complaint counsel or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), formal adjudication of the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the complaint

counsel or respondent pursuant to a showing of proper grounds.

B. A written notice of the complaint and the time, date, and place of the scheduled hearing thereon shall be served upon the respondent by certified mail, return-receipt-requested, by first class mail, or by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure, at the most current address for the respondent reflected in the official records of the board. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LP 19:1318 (October 1993), amended LR 22:

§919. Subpoenas for Hearing

A. ...

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671, in addition to those fees required by LAC 46:XXXIII.421. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the hearing panel with reference to the value of the time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LP 19:1319 (October 1993), amended LR 22:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State 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. No preamble has been prepared.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hearing Notice/Hearing Subpoena**

- 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 NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9510#076

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Dentists—Restricted Licensees and Parental Consent
Requirement
(LAC 46:XXXIII.105 and 106)

C. Barry Ogden
Executive Director

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.105(B) "Requirements of Restricted Licensees" and to adopt LAC 46:XXXIII.106 "Parental Consent."

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§105. Requirements of Restricted Licensees

A. ...

B. All recipients of restricted licenses who are members of the faculty of the LSU system, and who are graduates of a dental school accredited by the Commission on Dental Accreditation of the American

Dental Association, and who otherwise meet all requirements for a general license must receive same within two years from receipt of the original restricted license by successfully completing the LSBDD clinical licensure examination or by credentials, provided that where a holder of a restricted license has been so licensed without interruption since January 1, 1990, he may continue to hold a restricted license without the necessity of meeting the requirements for a general license.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:

§ 106. Parental Consent

No dentist is to replace a tooth or part of a tooth or associated tissue by means of a filling, cap, or crown on any person under the age of 18 years without the prior consent of the minor's parent or guardian.

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 22:

Interested persons may submit written comments on these proposed rules 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. No preamble has been prepared.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Restricted Licensees and Parental Consent**

- 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 little or 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 NONGOVERNMENTAL GROUPS (Summary)
There will be little or no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition and employment.

C. Barry Ogden
Executive Director
9510#073

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

Domicile and Annual Meeting
(LAC 46:XLVII.3305, 3307)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to the official office of the board and the annual meeting of the board. The proposed amendments of the rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General Rules

Subchapter A. Board of Nursing

§3305. Official Office of the Board

A. The domicile of the board is Baton Rouge, Louisiana. The office for administration of board work shall be established in the metropolitan area of the City of New Orleans.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:919 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:73 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:

§3307. Meetings of the Board

* * *

B. A minimum of four regular meetings shall be held each year. The annual meeting shall be held at the November meeting.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:73 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:

Inquiries concerning the proposed amendments may be directed in writing to: Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Louisiana State Board of Nursing, at 912 Pere Marquette Building, 150 Baronne Street, New Orleans, LA, 70112. Written comments must be submitted to and received by the board within 60 days of the date 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.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Domicile and Annual Meeting

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There will be no implementation cost/savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be some limited effect on competition and employment if additional vendors can be considered to provide office space.

Barbara L. Morvant, M.N., R.N.
Executive Director
9510#061

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Abortion Reporting (LAC 48:V.Chapter 123)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, proposes to enact the following rule, as mandated by Act 648 of the 1995 Regular Legislative Session relative to informed consent for abortion. This proposed rule sets forth the distribution of the written materials required by the Act, as well as the deadlines for reporting.

This proposed rule is to become effective upon publication as a final rule in the *Louisiana Register*.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Preventive Health Services

Subpart 45. Vital Records

Chapter 123. Documents Related to Abortion - Informed Consent

§12314. Documents Related to Informed Consent - Abortion; Distribution and Reporting Procedures

A. Distribution

1. The printed materials which the department is required to publish pursuant to Act 648 of the 1995 Regular Legislative Session shall be made available at no cost, upon request, by any person, facility or hospital. Such materials shall include the pamphlet (entitled *Abortion: Making A Decision*) describing fetal development and the risks associated with different abortion methods, a directory of agencies which provide abortion alternative services and the certification form (PHS 16-IC) and accompanying instruction sheet.

2. The facility or hospital requesting the pamphlet, directory or certification form shall direct all requests, via mail or facsimile to the following: The Office of Public Health; 325 Loyola Avenue, Room 610, New Orleans, LA, 70112, (504) 568-5330; FAX: (504) 568-3786.

3. The following information shall be included in the request by a facility or hospital:

- a. name of the person, facility or hospital making the request;
- b. total number of pamphlets and directories requested;
- c. total number of certification forms requested.

4. An individual who is not representing a physician, facility or hospital may request the materials calling the Office of Public Health at the number listed in Paragraph 2 above. The materials will be mailed to the individual.

Any identifying information shall remain confidential.

B. Reporting

1. A physician shall report the following information to the department within 15 days of the information and materials being provided:

- a. name and address of the facility where the required information was provided;
- b. information as required by R.S. 40:1299.35.10(A)(1) and (4) through (18) inclusive; and
- c. copy of the certification form required by Act 648, if executed by the woman.

2. a physician who performs an abortion shall report the following information to the department within 15 days of the abortion:

- a. all information as required by R.S. 40:1299.35.10;
- b. date upon which the required information and materials were provided; and
- c. executed copy of the certification form required by Act 648.

A physician who reports under Subsection B.2 need not comply with the reporting requirements of Subsection B.1 herein.

3. In addition to the aforementioned reporting requirements, a physician who performs abortions shall report to the department the total number of executed certification forms received monthly. The total number of certification forms received during the calendar month shall be reported within seven days following that calendar month.

4. The information required to be reported herein shall be reported to the department, the Office of Public Health at the following address: Director and State Registrar; Division of Records and Statistics; Office of Public Health; Box 60630; New Orleans, LA 70160.

AUTHORITY NOTE: Promulgated in accordance with Act 648 of the 1995 Regular Legislative Session, which amends and reenacts R.S. 40:1299.35.6.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, LR 22:

Interested persons may submit written comments to Sharon Howard, Office of Public Health, Box 60630, New Orleans, LA 70160. A public hearing will be held on November 27, 1995 at 10 a.m. at the State Office Building, Auditorium, 150 Third Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit comments, orally or in writing, at said hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Abortion Related Documents**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated cost to the agency to implement this rule is \$123,519.36. Summary of the cost is as follows:

	Number	Cost
Printing of Abortion Alternative Pamphlet	37,500	\$18,598.50
Printing of Abortion Alternative Directory	37,500	34,800.00
Printing of Certification Form	33,000	3,121.80
Printing Negative of Fetus Development Slides	12	2,100.00
Production of Fetus Development Slides	12	57.83
1 Page Mailer (Postage)	3,640	1,164.80
1 Page Mailer (Env. and Paper)	3,640	39.17
Long Distance Phone Calls		50.70
FAX Cost		75.00
Brown Envelopes	10,000	901.30
Postage for Mailing Initial Abortion Alternative Directory and Certification Form (first class mail) (\$3 first class mail) x 3,640 = \$10,920	3,640	10,920.00
Newspaper Notices	8	9,892.46
Additional Postage (27,500 x \$1.50)		41,250.00
Mailing Labels		547.80
Total		\$123,519.36

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefits that directly affect persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Eric T. Baumgartner, M.D., M.P.H.
Assistant Secretary
9510#066

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Public Health
Sanitary Code**

Nutria Processing for Human Consumption

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and

Hospitals, Office of Public Health proposes to amend and enact rules pertaining to the slaughter and processing of nutria (*Myocastor coypus*) for human consumption. This rule shall have concurrence of the Louisiana Department of Agriculture and Forestry and the Louisiana Department of Wildlife and Fisheries in accordance with Act No. 352 of the 1995 Regular Session.

The purpose of this rule is to promulgate regulations and to establish procedures to govern the slaughter and processing of nutria (*Myocastor coypus*) for human consumption. This proposal stems from a serious problem of extremely large and virtually uncontrollable populations of nutria animals that are posing a threat to the integrity of wetland areas of Louisiana. As a possible remedy to this problem it is proposed that nutria be harvested and the skeletal muscle meat be processed for human consumption within approved processing facilities that will assure the production of a safe, high quality and wholesome meat product as an alternative to traditional animal meat products.

The purpose and scope of this rule shall include the following:

1. duties and roles of the departments engaged in this cooperative endeavor;
2. establishment of an initial limited pilot program that will be manageable by all departments involved;
3. minimum eligibility criteria for persons interested in participating in the pilot program;
4. limiting of nutria animals slaughtered and processed to those trapped by trappers who hold a valid current license issued by the Louisiana Department of Wildlife and Fisheries;
5. to propose amendments to Sections 10:003, 10:008, 10:015, 10:017, 10:018, 10:019, 10:020, 10:025, 10:026, 10:027, 10:028, 10:031, 10:035, 10:038, 10:040 of Chapter X of the State Sanitary Code; to propose enactment of Sections 10:043, 10:044, 10:044-1, 10:045, 10:046, and 10:047 of Chapter X of the State Sanitary Code; to amend Sections 49:3.0403(12), 3.0403(13), 3.0403(14), and 3.0403(15) of the meat and meat products regulations;
6. establishing standards of identity for nutria meat and nutria meat products by amending the meat regulations found in the "Red Book" which contains the Louisiana food, drug, and cosmetic laws and regulations as amended through February, 1986. Later amendments to the laws are found in the Louisiana Revised Statutes and later amendments to the regulations are located in the *Louisiana Register*, until the next printing of the "Red Book."

The nutria slaughter and processing initiative is based upon a cooperative endeavor agreement between the Louisiana Department of Health and Hospitals (LDHH) and the Louisiana Department of Agriculture and Forestry (LDAF). This agreement became effective as of February 1, 1995. The agreement specifies the duties and roles of

the agencies involved in the processing of nutria for human consumption.

As specified in the cooperative endeavor agreement, the LDHH will approve and issue permits to operate to those applicants found in compliance with the provisions of this rule and applicable provisions of the State Sanitary Code. Inspection services by LDHH will be limited to Sanitary Code compliance audit of new or existing slaughter house facilities and equipment. The LDAF will provide for inspection of nutria carcasses at a 100 percent inspection rate. Thus, each nutria animal processed for human consumption will be inspected for wholesomeness and suitability as human food. LDAF will review and approve the nutria processing operations of each facility for adherence to a Hazard Analysis Critical Control Point (HACCP) quality assurance plan as adopted by the LDAF. LDAF will routinely collect and analyze samples of nutria meat for presence of decomposition and harmful microbes as part of a HACCP quality assurance plan. LDAF will review and approve labels and labeling of nutria meat processed, packed and shipped from approved processing plants. The LDWF will target certain geographical areas of the state to determine which areas are most populated by nutria and would be best suited for establishing a nutria processing plant. The LDWF will establish annually the dates for the opening and closing of nutria trapping seasons.

Chapter X. Game Bird and Small Animal Slaughter and Processing

* * *

10:003

The inspection of slaughter houses, meat packing plants and sausage kitchens preparing cattle, sheep, swine, goats, equines, chickens and turkeys is vested in the State Department of Agriculture and Forestry under authority of the State Meat and Poultry Inspection Law, LSA - R.S. 40:2271 et seq. The only services the State Department of Health and Hospitals shall provide such establishments will be approval of their water supplies and waste disposal facilities and registration of meat products in accordance with the provisions of LSA - R.S. 40:627, and Chapters XII and XIII of this Code.

10:008

Permits shall be issued only to the person or persons responsible for the operations of the facility and shall not be transferrable.

10:015

These records shall be kept on file for one year by the owner or operator of the slaughter house and shall be available for the state health officer's inspection at any time during reasonable working hours.

10:017

Plans and specifications for new establishments shall be

submitted to the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit for review and approval before construction.

10:018-1

Slaughter and processing plants shall be well lighted, naturally and/or artificially with at least 40 foot candles of light on all working surfaces.

10:018-2

Slaughter and processing plants shall be provided with adequate ventilation or control equipment to minimize odors and vapors (including steam and noxious fumes) in areas where they may contaminate food; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for contaminating food, food-packaging materials, and food-contact surfaces.

10:019

Drainage, sewage disposal, and plumbing systems shall comply with Chapters XIII and XIV of this Code. Floor drains shall be provided in the slaughter and packing rooms in accordance with Chapter XIV.

10:020

Potable water shall be available in all areas of the slaughter house for cleaning and sanitizing utensils and equipment, and for hand washing, as specified in Chapter XIV of the State Sanitary Code, referencing Chapter 12 of the Standard Plumbing Code, 1991 Edition with 1992 Louisiana amendments. A heating facility capable of producing hot water for these purposes shall be provided on the premises. Water samples to verify microbiological quality and potability shall be collected from each plant at least annually.

10:025

Toilet facilities shall be provided and installed in accordance with Chapter XIV of the State Sanitary Code, referencing Section 922 of the Standard Plumbing Code, 1991 Edition. Facilities shall be conveniently located and shall be accessible to employees at all times.

10:026

Hand washing lavatories shall be provided and installed in accordance with Chapter XIV of the State Sanitary Code, referencing Section 922 of the Standard Plumbing Code, 1991 Edition. Hand washing lavatories shall be accessible to employees at all times. Hand washing lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing. Each hand washing lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. An ample supply of hand cleansing soap or detergent shall be available at each lavatory. An ample supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each hand washing lavatory. The use of common towels is prohibited. If disposable towels are used, easily

cleanable waste receptacles shall be conveniently located near the hand washing facilities.

10:027

A three-compartment sink constructed of smooth, impervious noncorrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms or other preparation rooms for washing, rinsing and sanitizing utensils and equipment. Sinks constructed of galvanized steel are not acceptable. Sinks shall be adequate in size and number and shall be large enough to accommodate the largest utensil or movable piece of equipment.

Each sink compartment is to be designated and used for a specific purpose as shown in Table 10.1 below:

Table 10.1 Three Compartment Sink Usage

Sink Compartment #1	Sink Compartment #2	Sink Compartment #3
Detergent Wash to remove soil and food residues.	Rinse with potable water to remove detergent solution.	Immersion in hot water or chemical sanitizing solution to destroy harmful microbes not removed by washing process (See 10:028-2).

Each sink compartment shall be provided with hot and cold running water delivered under pressure through a mixer faucet or mixing valve. Sinks are to be properly installed and shall be trapped and vented. Sinks designated for washing or thawing of food or food ingredients shall be designated for that purpose only and shall not be used for cleaning equipment or utensils.

10:028-1

Equipment and utensils used for preparing, processing and otherwise handling any meat, meat product or poultry shall be of such material and construction so as to enable ready and thorough cleaning and sanitizing such as will insure strict cleanliness in the preparation and handling of all food products. Trucks and receptacles used for inedible products shall bear some conspicuous and distinct mark and shall not be used for handling edible products.

10:028-2

Equipment and utensils used for preparing, processing and otherwise handling any meat, meat product or poultry shall be cleaned as often as necessary to avoid contamination of food, food ingredients and food-packaging materials.

Food-contact surfaces of equipment and utensils used in

the processing and packaging of foods subject to contamination by harmful microbes shall be washed with a suitable detergent solution, rinsed with potable water and then sanitized in a manner specified as follows:

A. Hot Water Immersion. Cleaned equipment and utensils shall be immersed in fresh hot water of 170° F (77° C) or above.

B. Chemical Sanitizers. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times specified in 10:028-2 (C) shall be listed in 21 CFR 178.1010, shall be used in accordance with the EPA-approved manufacturer's label use instructions, and shall be used as follows:

1. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Minimum Concentration mg/L	Minimum Temperature pH of 10 or less °F (°C)	Minimum Temperature pH of 8 or less °F (°C)
25	120 (49)	120 (49)
50	100 (38)	75 (24)
100	55 (13)	55 (13)

2. An iodine solution shall have a:

- a. minimum temperature of 75° F (24° C),
- b. pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness, and
- c. concentration between 12.5 mg/L and 25 mg/L.

3. A quaternary ammonium compound solution shall:

- a. have a minimum temperature of 75° F (24° C),
- b. have an effective concentration of not more than 200 mg/L as specified in 21 CFR 178.1010,
- c. be used only in water with 500 mg/L hardness or less.

4. Other solutions of the chemicals specified in 10:028-2 (B)(1-3) of this section may be used if demonstrated to the state health officer to achieve sanitization and approved by the state health officer; or

5. Other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling.

C. Sanitization Exposure Times. Utensils and food-

contact surfaces shall be exposed to hot water and chemical compounds for a period of time as specified below:

METHOD	MINIMUM EXPOSURE TIME
Hot Water Immersion	30 seconds
Chlorine solutions	10 seconds
Other Chemical Sanitizing Solutions	30 seconds

10:031

Rooms, compartments, places, equipment and utensils used for preparing, storing or otherwise handling any meat, meat products or poultry processed or packed, shall be kept free of steam and vapor to allow for inspections and to insure clean operations. The walls and ceilings of coolers and rooms under refrigeration shall be kept free from moisture so that condensation does not accumulate on walls and ceilings. Fresh meat and poultry shall be stored at 41° F or below.

10:035

In addition, all vehicles used to transport meat, meat products or poultry shall be equipped with refrigeration units capable of maintaining 41°F or below for refrigerated products and 0°F or below for frozen products to insure their cleanliness.

10:038

Employee Health. The requirements of Chapter I, Section 1:008 (1-3) and Chapter 2, Sections 2:021-2:024 of this Code shall be met.

10:040

Offal shall be properly disposed of in a manner so as not to create nuisances or unsanitary conditions in or around the slaughter and processing plant that would provide a source of contamination. Offal shall be hauled away and properly disposed of daily pursuant to the requirements set forth in Chapters XI and XXVII of the State Sanitary Code.

* * *

Nutria Program

10:043

In order to protect the health and welfare of consumers and to properly manage the nutria inspection program, an initial pilot program will be established and will include the supervision of a limited number of nutria processing facilities. For the initial pilot program, permits to operate will be issued to a maximum of five qualified applicants.

Application for permits to process nutria shall be made on a form provided by the Department of Health and Hospitals. However, no application to process nutria will be accepted after the maximum number of permits have been issued or after the closing of the nutria trapping season. The nutria processing pilot program will commence and cease on dates coinciding with the beginning and ending of the nutria trapping season as promulgated by the Wildlife and Fisheries Commission. Permits issued by LDHH will expire at midnight of the last official day of the nutria trapping season. Only nutria taken by licensed trappers will be considered eligible for processing and inspection under the cooperative inspection program. The number of nutria processing plants that will be approved and permitted for nutria processing in future years will be determined each year after the close of the nutria trapping season and after an evaluation of each year's production has been made.

10:044

Persons wanting to process nutria for human consumption must meet certain minimum qualifications in order to be considered for inclusion in the nutria processing pilot program.

10:044-1

Permitted facilities shall:

1. have access to an abundant supply of nutria animals for slaughtering and processing in order to keep each processing facility operating at an acceptable capacity in order to best utilize the personnel and resources of all departments;
2. utilize processing facilities that are designed and constructed to meet the minimum standards of Chapter X of the State Sanitary Code;
3. establish and adhere to a HACCP quality control plan approved by LDAF that will render safe nutria meat which is free of harmful microorganisms and of sound, wholesome quality;
4. receive and process only those nutria animals that have been taken by trappers who hold a valid license issued by the LDWF;
5. pre-inspect nutria carcasses upon receipt from licensed trappers to verify suitability for submission for inspection. Carcasses that are deemed unsuitable for processing for human consumption shall be clearly marked or otherwise identified so as not to be subject to inspection or otherwise commingled with nutria deemed suitable for human consumption. Nutria carcasses declared not fit for human consumption shall be rejected from inspection and shall be destroyed and disposed of in a manner approved by LDHH and LDAE and shall not be allowed to create a nuisance and/or a source of contamination.

10:045

Each package, container, carton, or case of nutria, nutria meat, or nutria meat products shall be labeled in accordance with Section 49:3.0601 of the meat and meat

products regulations. Labels and labeling shall be reviewed and approved by the LDAF. All nutria taken, processed, packaged and distributed under this cooperative program shall be labeled and identified as "certified cajun nutria."

10:046

No nutria meat shall be sold in any butcher shop, meat market, grocery store, restaurant or to any wholesale grocer, dealer or distributors unless such nutria meat is clearly identified as having been processed and inspected in an approved processing facility. Nutria meat not clearly identified as having been processed and inspected in an approved processing facility shall be subject to seizure and destruction as provided for by LSA - R.S. 40:632 and 635.

10:047

The provisions herein constituting Chapter X of the State Sanitary Code shall apply to the nutria program, as appropriate.

* * *

Section 49:3.0403 of the meat and meat products regulations are hereby amended as follows:

49:3.0403 (12)

"Nutria" or "nutria meat" is the edible part of the muscle of nutria which is skeletal and shall not include muscle that is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without accompanying and overlying fat, and the portions of bone, skin sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing.

49:3.0403 (13)

"Nutria meat product" is any article of food, or any article intended or capable of being used as food which is derived or prepared, in whole or in substantial definite part, from the skeletal muscle of nutria.

49:3.0403 (14)

"Nutria Sausage" is the coarse or finely comminuted meat food product prepared from nutria meat in combination with one or more kinds of meat or meat and meat by-products, containing various amounts of water and usually seasoned with condimental substances, and frequently cured. Nutria sausage shall contain greater than 50 percent nutria meat in combination with other meat or meat and meat by-products. To facilitate chopping or mixing or to dissolve the usual curing ingredients, water or ice may be used in the preparation of nutria sausage which is not cooked in an amount not to exceed 3 percent of the total ingredients of the formula.

49:3.0403 (15)

"Uncooked, Smoked Nutria Sausage" is Nutria Sausage that is smoked with hardwood or other approved nonresinous materials. Smoked nutria sausage shall contain greater than 50 percent nutria meat in combination with beef, pork or poultry meat or beef, pork or poultry meat by-products. To facilitate chopping or mixing, water, or ice may be used in an amount not to exceed 3

percent of the total ingredients used. Nutria, beef, pork and poultry meat ingredients as well as all other ingredients shall be designated in the ingredient statement on the label of such sausage as required by 49:2.0220 of the food regulations.

"Cooked sausage, nutria frankfurter, nutria frank, nutria furter, nutria hot-dog, nutria wiener and similar products" are comminuted, semisolid sausages prepared from raw skeletal nutria muscle meat alone or in combination with beef meat, pork meat, or poultry meat and seasoned and cured, using one or more of the curing agents in accordance with 9 C.F.R. 318.7(c). They may or may not be smoked. The finished products shall contain not less than 50 percent nutria meat and not more than 30 percent fat. These sausage products may contain only phosphates approved under 9 C.F.R. 318. Such products may contain raw or cooked poultry meat not in excess of 15 percent of the total ingredients, excluding water, in the sausage, and mechanically separated (Species) used in accordance with 9 C.F.R. 319.6. Nutria, beef, pork and poultry meat ingredients as well as all other ingredients shall be designated in the ingredient statement on the label of such sausage as required by 49:2.0220 of the food regulations.

* * *

Interested persons may submit written comments or views on this proposal to William Swiler, Food and Drug Program, Department of Health and Hospitals, Office of Public Health, 325 Loyola Avenue, Room 208, New Orleans, LA 70112.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nutria Processing for Human
Consumption**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

The Department of Health and Hospitals, Office of Public Health, anticipates no additional costs to implement this rule. The Department of Agriculture and Forestry anticipates no new needed state revenues to implement this rule. Costs for services rendered will be recovered through user inspection fees.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

DHH, OPH:

# Plants		Revenue Type	Total Self Generated
5	X	\$45 Permit Fee	\$225
5	X	\$15 Registration Fee	\$75
			\$300

LDAF:

# Plants	Inspection Rate/Hr.	# Hrs./Day	#Days	Total Self-Generated
5	\$17.80	8	100	\$71,200

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimates in II above apply to FY-1995/96. Future year estimates may vary higher or lower depending upon the number of plants licensed and inspected and number of hours of inspection services provided.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The long term goal of this project is to reduce the nutria population that damage Louisiana wetlands. Assuming that a global market for nutria continues, more trappers are expected to trap nutria, processing plants may add personnel to process the nutria, more exporters may become involved in exporting nutria meat fur pelts.

Charles F. Castille
Deputy Secretary
9510#64

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code-Sewage Effluent Reduction Systems

The Department of Health and Hospitals, Office of Public Health intends to amend Chapter XIII of the State Sanitary Code to require the installation of sewage treatment effluent reduction systems on all newly constructed and reconditioned sewage systems up to and including 1,500 gallons per day, and to comply with Act 505 of the 1995 Regular Session. Presently, over 75 percent of all new individual sewage treatment systems installed annually discharge their effluent into our streams, rivers, lakes, etc. Although this effluent is treated, it still adds to the pollution of the state's waters, thereby exposing our citizens and seafood estuaries to a degree of risk to public health. This legislation gave the Department of Health and Hospitals the authority to require an effluent reduction system behind all of these installations.

The Office of Public Health will require all new and reconditioned sewage treatment systems with a capacity up to and including 1,500 gallons per day that produce an effluent and, by design, do not significantly reduce the amount of effluent shall be followed by an effluent reduction system.

Chapter XIII. Sewage Disposal

Add to 13:001 Definitions:

Reconditioned System—any existing approvable individual sewerage system that is beyond routine maintenance and can only be corrected by replacement with a new approved system.

Delete 13:019-1, 4. b.

Change 13:019-1, 4. c. to 13:019-1, 4. b.

13:019-1, 4. b. is to read as follows:

b. Minimum area of 12,000 square feet with a minimum front of 60 feet where an approved individual mechanical plant is utilized and is followed by an effluent reduction system described in Appendix A, Section IX of this Code.

Change 13:019-2 to 13:019-3.

13:019-2 is to read as follows:

13:019-2 All approved new and reconditioned sewage treatment systems with a capacity up to and including 1,500 gallons per day that produce an effluent and, by design, do not significantly reduce the amount of effluent shall be followed by an effluent reduction system described in Appendix A, Section IX of this Code.

Delete Appendix A:6.9 in its entirety.

Add to Appendix A, Section IX. Effluent Reduction Systems to read as follows:

IX. Effluent Reduction Systems

A:9.1 Those situations requiring the reduction of effluent to comply with Paragraph 13:019-2, must utilize one of the following systems. Special situations may arise where an individual on-site wastewater treatment system is allowed as per Paragraph 13:019-1, but the lot size will not accommodate any of the effluent reduction systems. In those situations, and only those situations, the sanitarian parish manager may consult with the sanitarian regional director to make modifications to one of the effluent reduction systems to accommodate that situation.

a) Effluent Reduction Field. This system may be installed downstream of an approved home mechanical treatment plant or other sewage treatment system listed in Appendix A of the Sanitary Code that produces an effluent, but does not by design significantly reduce that effluent. Figure 11 has a diagram with specifications and cross sections of the effluent reduction field utilizing a home mechanical treatment plant. The required sample port must be installed downstream of the MTP. If there is not sufficient grade to reach a discharge point, then a pump and pump tank (as per Appendix A, VII Pumping Stations) must be installed downstream of the mechanical treatment plant. The force of the pumped effluent must be reduced by use of a distribution box, "T", or similar appurtenance. The effluent reduction field must be 18-24

inches wide and no more than 18 inches deep. The bed of the effluent reduction field must be level.

The length of the effluent reduction field is determined by the capacity of the mechanical treatment plant.

MT P Capacity	Minimum Length
500 GPD	50 FT
750 GPD	75 FT
1000 GPD	100 FT
1500 GPD	150 FT

More than one absorption line may be used to reach the minimum required length of effluent reduction field, however there can be only one discharge pipe. The pipe from the end of the effluent reduction field to the discharge point must also be perforated. The end of the discharge line must have a one-half poly-vinyl chloride (PVC) cap over the lower half of the endpipe to retain effluent longer and to provide a greater opportunity for absorption. No single line may be longer than one hundred feet. Limestone, clam, and oyster shells may be substituted for gravel in the effluent reduction field. Graveless pipe is not acceptable.

b) Rock-plant Filter. All rock plant filters must be 3 feet wide. The length will be determined by the capacity of the mechanical treatment plant as follows:

MTP Capacity	Rock Plant Filter Length
500 GPD	50 FT
750 GPD	75 FT
1000 GPD	100 FT
1500 GPD	150 FT

Refer to Figure 12 for a schematic and cross section of a rock-plant filter with MTP installation.

If there is not sufficient grade to install MTP and the E/R (effluent reduction) system with gravity flow to discharge point, then a pump and pump tank (as per Appendix A, VII Pumping Stations) must be installed.

Standard shape bed only - elongate rectangle, 3 feet wide and the appropriate length. Any other configuration must submit plans to the regional sanitarian director.

Rock size of the gravel must be in the 2 to 3-inch range.

No liner will be required unless ground water intrusion is a problem. The polyethylene liner may be of more than one layer as long as a total thickness of at least 16 mil is achieved. While liner is not required, landscape fabric is highly recommended.

The bottom of the filter must be level. A total gravel depth of 12 inches and liquid depth of 8 inches must be provided. Gravel should fill the filter bed to above surface grade to prevent erosion of the trench. The liquid depth will be 3 inches below the surface grade.

The perforated inlet pipe should extend 1 foot into the rock plant bed and then have a "T". The outlet pipe shall be set in a footing of noncorrosive material (concrete or treated timber) on the bottom of the bed with the same "T". The outlet must be elbowed up and out (See Figure 12). Continue perforated pipe from rock plant filter to

discharge point.

A levee support around the perimeter of the filter is necessary to exclude surface water. The use of landscape timbers for this purpose must be secured in one of the following ways.

1. cross members every 10 feet;
2. in ground piling supports every 10 feet,
3. double layer stacked and staggered.

c) Mound System. A mound system is a soil absorption system that is elevated above the natural soil surface in a suitable fill material. The purpose of the design is to overcome site restrictions that prohibit the use of conventional soil absorption systems. Such restrictions are: (1) slowly permeable soils, (2) shallow permeable soils over creviced or porous bedrock, and (3) permeable soils with high water tables. In slowly permeable soils, the mound serves to improve absorption of the effluent by utilizing the more permeable topsoil and elimination construction in the wetter and more slowly permeable subsoil, where smearing and compaction are often unavoidable. In permeable soils with insufficient depth to ground water or creviced or porous bedrock, the fill material in the mound provides the necessary treatment of the wastewater. (See Figure 13).

The mound system consists of: (1) a suitable fill material, (2) an absorption area, (3) a distribution network, (4) a cap, and (5) top soil (See Figure 13). The effluent is pumped or siphoned into the absorption area through a distribution network located in the upper part of the coarse aggregate. It passes through the aggregate and infiltrates the fill material. Treatment of the wastewater occurs as it passes through the fill material and the unsaturated zone of the natural soil. The cap, usually a finer textured material than the fill, provides frost protection, sheds precipitation, and retains moisture for a good vegetative cover. The topsoil provides a growth medium for the vegetation.

Prior to the design of a mound system, the suitability of the site must be demonstrated through acceptable soil permeability, acceptable soil conditions and other topographic characteristics. In a mound system, at least 4 feet of sand is placed on top of the ground to supplement the soil used in treating the wastewater. There must be at least 48 inches of sand and soil before the wastewater reaches a limiting layer.

The wastewater distribution system is placed on 6 inches of gravel, which has been spread over the sand bed. The pipes will then be covered by 2 more inches of gravel.

Before covering the mound with a foot of soil, the gravel should be covered with a 2-inch layer of hay or building paper. This will prevent clogging of the gravel by the soil cover.

The size of the mound depends on the percolation rate of the soil and the expected volume of wastewater. A mound for a 3-bedroom house can be as large as 40 feet by 100

feet. This provides area for the sand, distribution system, and a 3-foot berm around the system with a 2-to-1 slope on the sides.

d) **Evaporation Pond.** The Evaporation Pond is shallow pond designed to provide evaporation of effluents treated to secondary standards or better. The evaporative properties of the pond will result in little, if any, discharge.

Figure 14 shows a typical layout for an evaporation pond system. The actual layout of any pond system will be governed to a great extent by the topography of the particular location. However, an oxidation pond must be located at least 50 feet (and preferably more) from any well or suction line supplying potable water. It is also desirable for aesthetic reasons to locate it as far as possible, but at least 50 feet from any dwelling and no less than 10 feet from the property line.

The pond is constructed with sloping sides and earthen levees. The design requires a minimum surface area of 625 square feet (25 feet by 25 feet) with a 5-foot liquid depth at the center in order to achieve the required volume. The slope of the natural earth side walls must not be shallower than one-to-one (45 degree angle). (See Figure 14).

e) **Spray Irrigation.** A process of on-site disposal using pressurized dispersion of effluent through sprinkler heads. The effluent collects in a pumping chamber. At a predetermined level, a float switch activates a pump that forces the effluent through piping to pop-up or elevated rotating type sprinkler heads. (See Schematic in Figure 15). Evaporation of the dispersed effluent prevents any run-off from occurring. A pump chamber with a minimum capacity prior to float switch activation of 100

gallons and constructed of approved materials is required. (See Figure 16). The pump must be a minimum of one-half horse power capable of producing a minimum of 12 gallons per minute and 25 psi at the sprinkler head. The pump will be activated by a float switch through a manual on/off switch. The pump must be deactivated through a low volume cut off.

A minimum of 3 (pop-up or fixed) 4-inch type heads spaced a minimum of 40 feet apart are required. Exceptions due to lot size, topography or other constraint may be considered by the sanitarian parish manager in consultation with the sanitarian regional director. The edge of the spray must not be a minimum of 50 feet from the nearest well and 10 feet from any property line.

The effluent to be dispersed by spray irrigation must be adequately chlorinated. (See Figure 17)

f) **Overland Flow.** Where the size of the property is sufficient (3 acres or more) and suitable soil is not present for the use of absorption trenches, an overland flow may be utilized. On property adjacent to waterways, overland discharges cannot be used on soils of gravel and coarse sands texture as these soils may not provide the necessary treatment to protect the water quality.

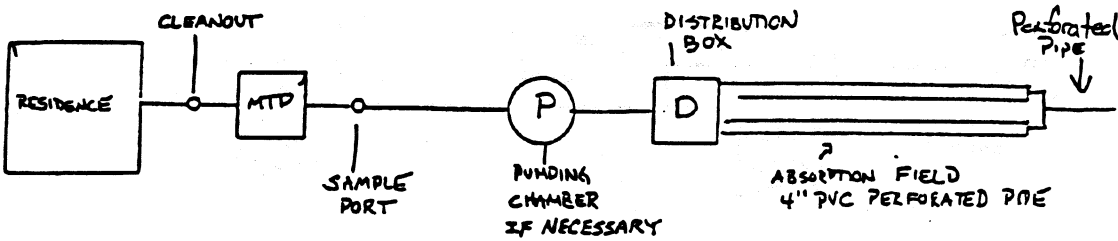
The discharge must be distributed in such a manner as to confine the effluent on the property owned by the generator.

The location of the overland discharge must have permanent vegetative cover maintained. Discharge point and the field for flow must be a minimum of 50 feet from nearest well.

Point of discharge must be a minimum of 200 feet from any property line. (See Figure 18).

FIGURE 11
EFFLUENT REDUCTION FIELD

SYSTEM SCHEMATIC



CROSS - SECTIONAL VIEW

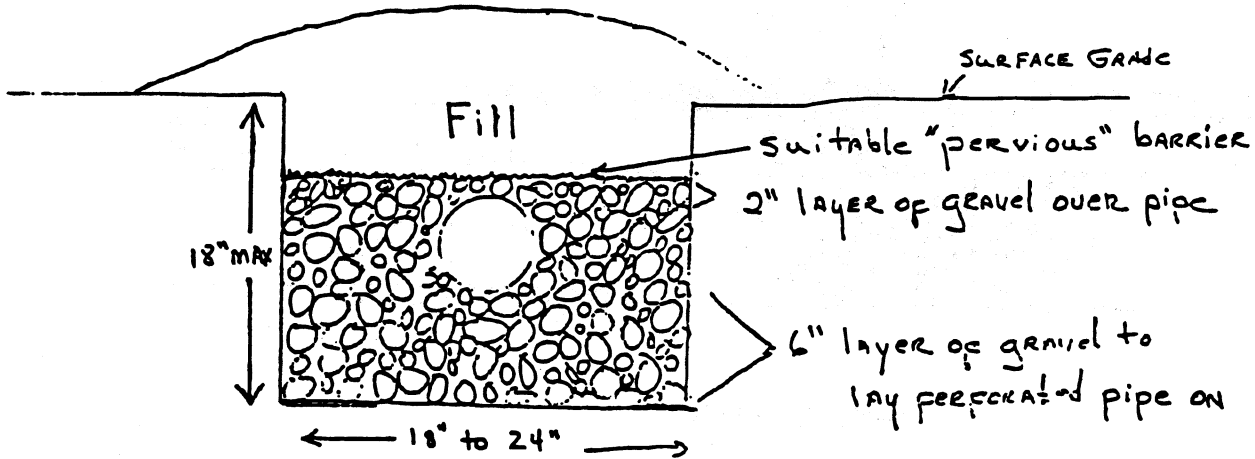
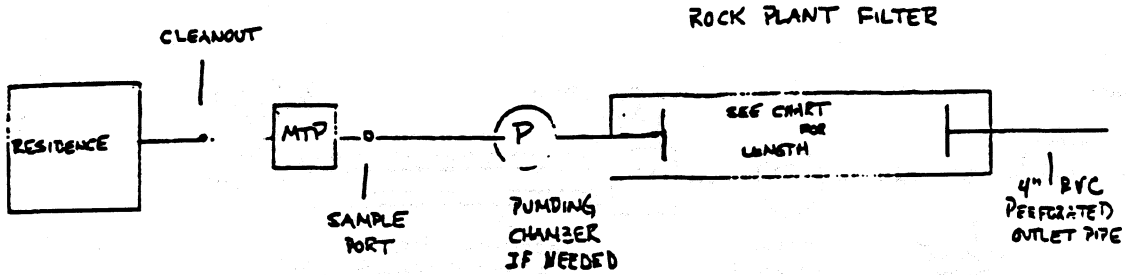


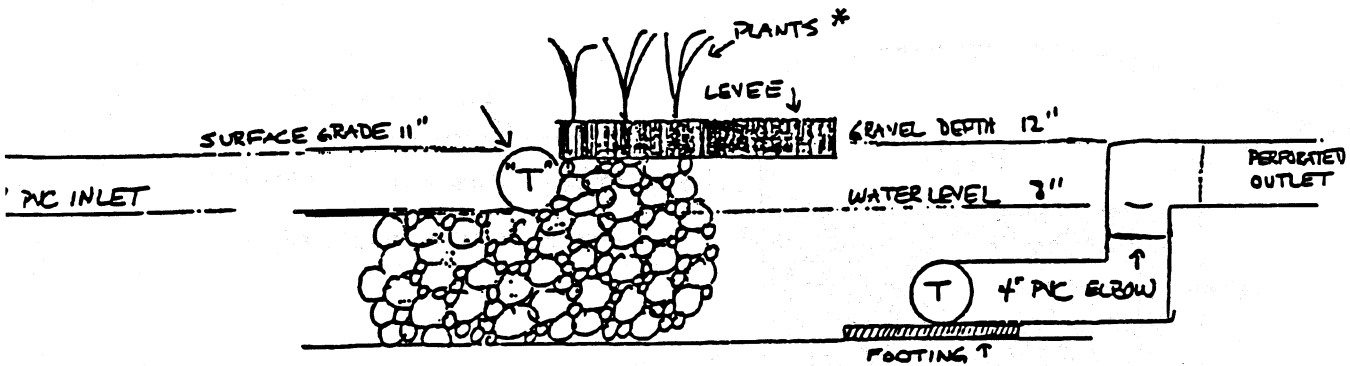
FIGURE 12
ROCK-PLANT

SYSTEM SCHEMATIC



- * Plants: Ginger Lilies
- Elephant Ears
- Calla Lilies
- Native Iris
- Canna Lilies

LONGITUDINAL CROSS - SECTION



OVERHEAD VIEW

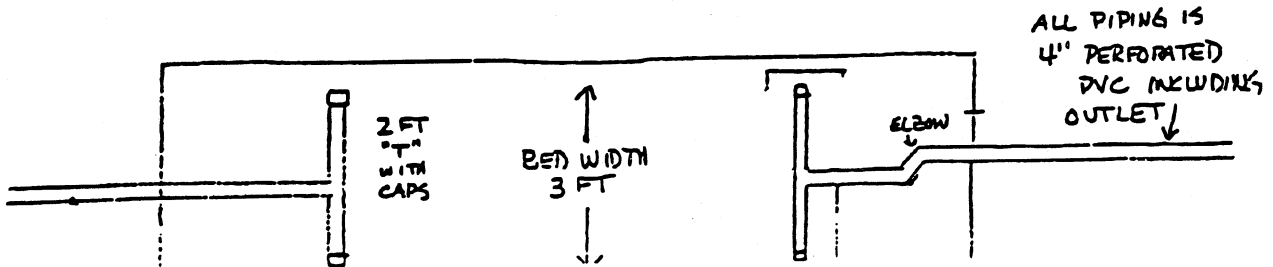
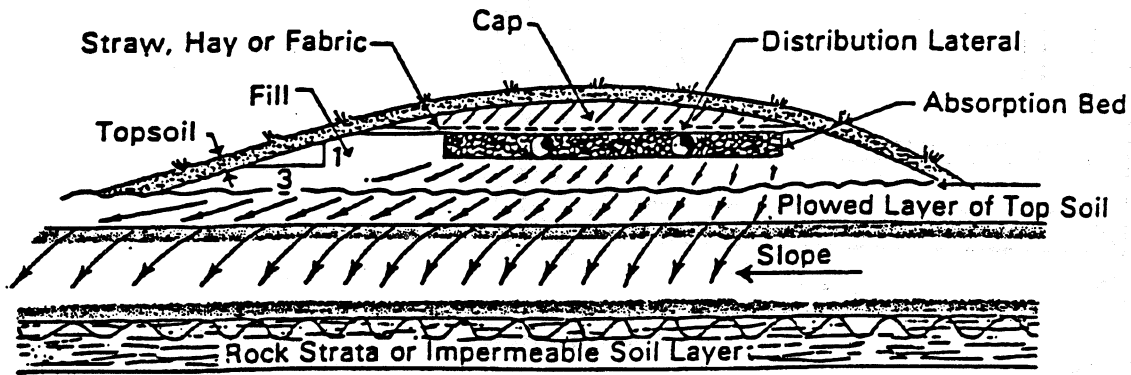


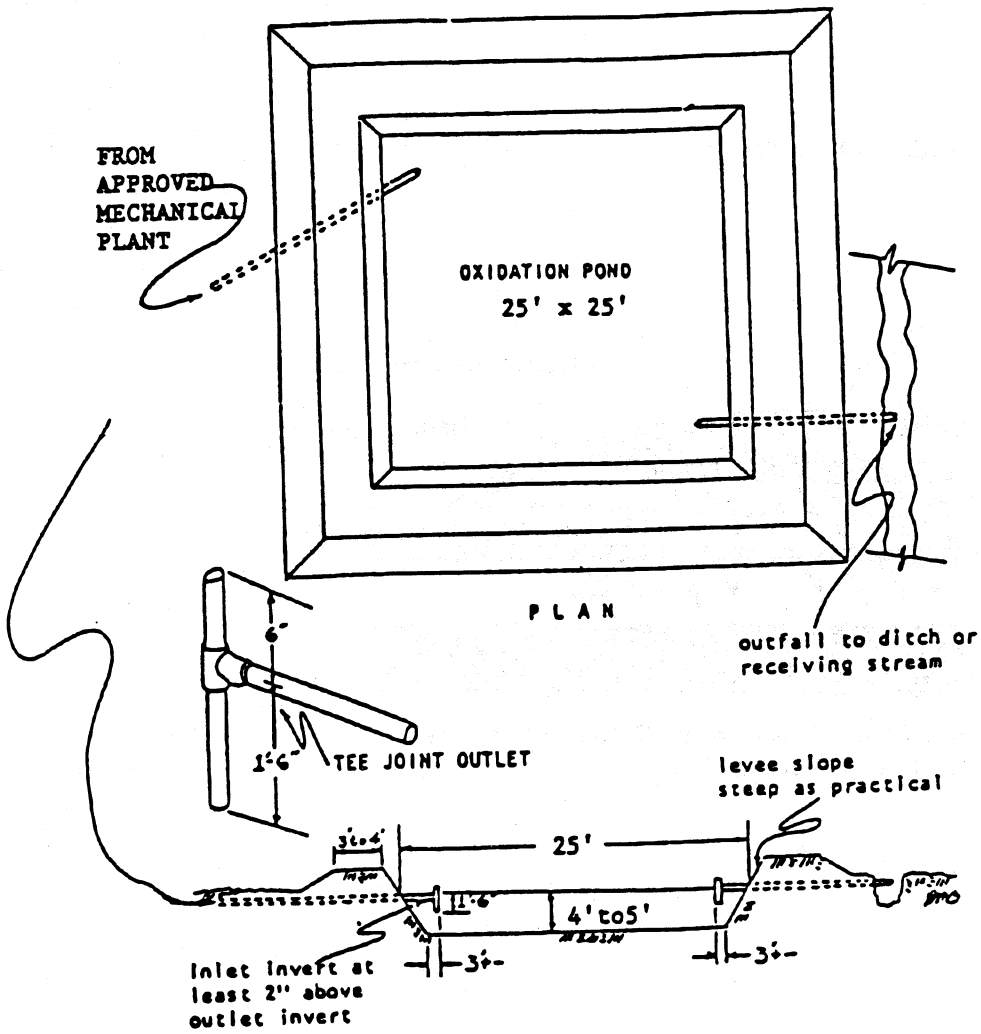
FIGURE 13
MOUND SYSTEM

TYPICAL MOUND SYSTEM



(a) Cross Section of a Mound System for Slowly Permeable Soil on a Sloping Site.

FIGURE 14
EVAPORATION POND

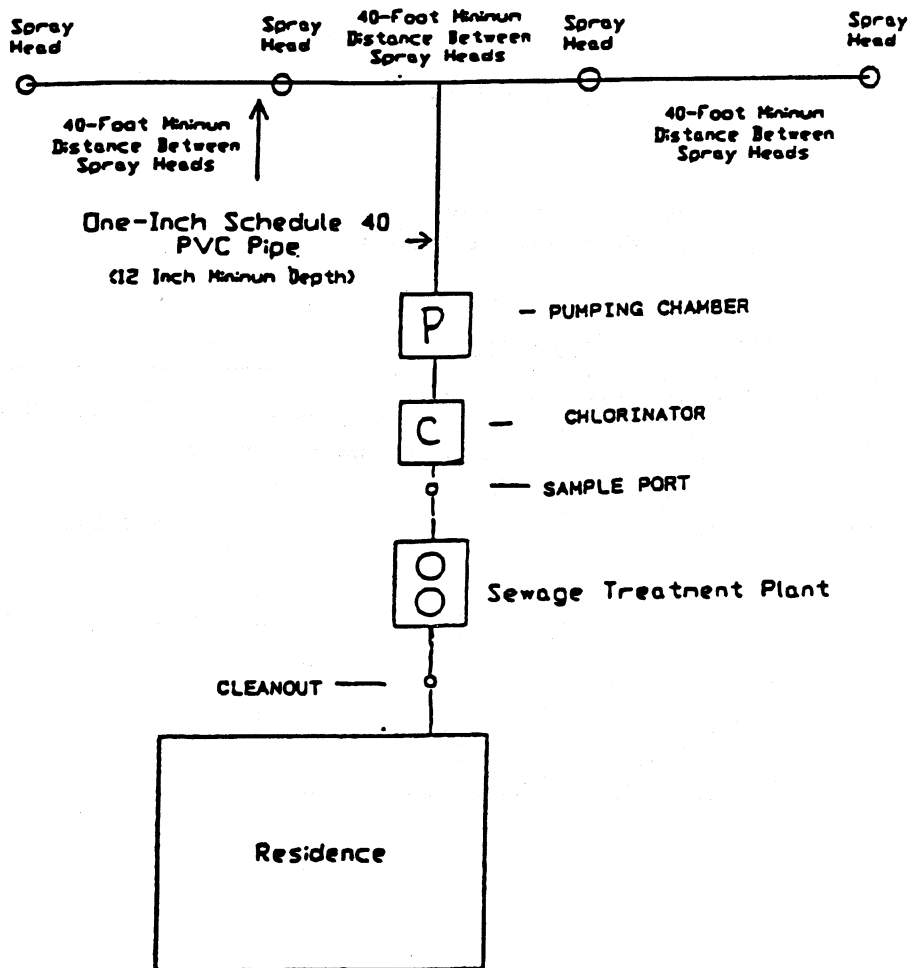


Pond must be enclosed by a woven wire fence at least 5' in height with a locked gate.

**FIGURE 15
SPRAY IRRIGATION SCHEMATIC**

Schematic shows 4 spray heads - minimum requirement is 3 spray heads

The Perimeter Of The Spray Area Shall Not Be Closer Than 10 Feet to Property Line/ Structure.



Minimum Standards For
Spray Irrigation Process
Which Utilizes Four Spray Heads

(DRAWING NOT TO SCALE)

FIGURE 16
PUMPING CHAMBER
FOR
SPRAY IRRIGATION

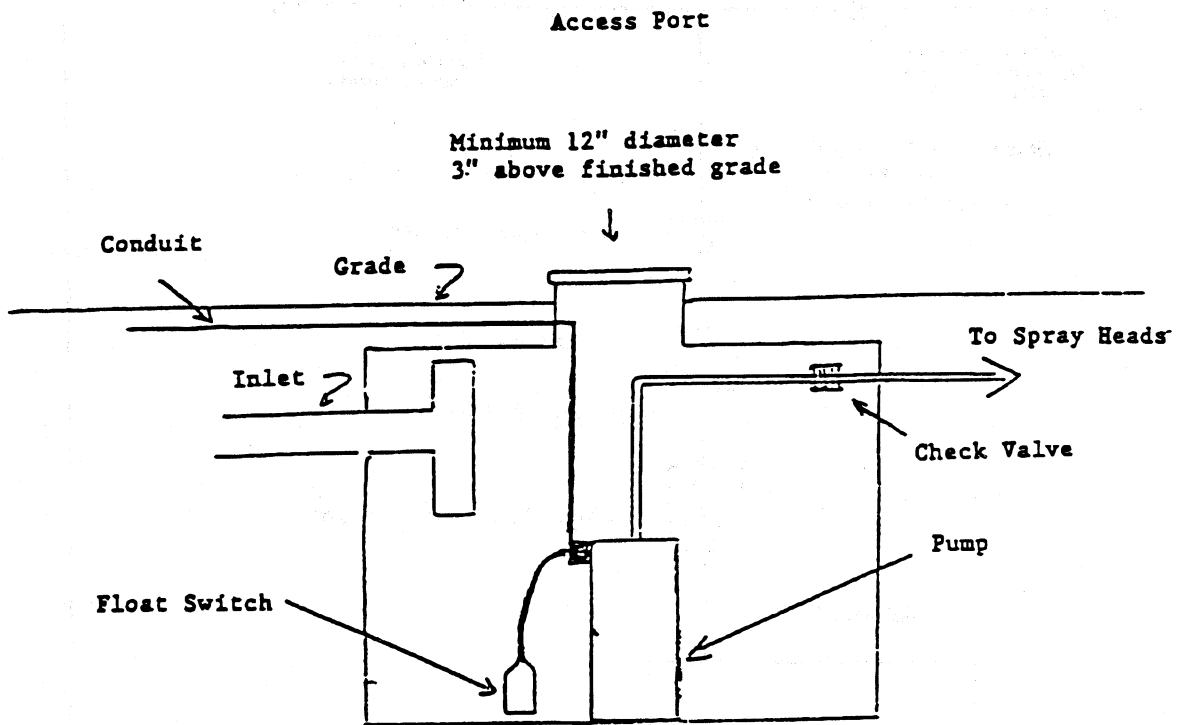


FIGURE 17
CHLORINATOR
FOR
SPRAY IRRIGATION

STACK FEED CHLORINATORS

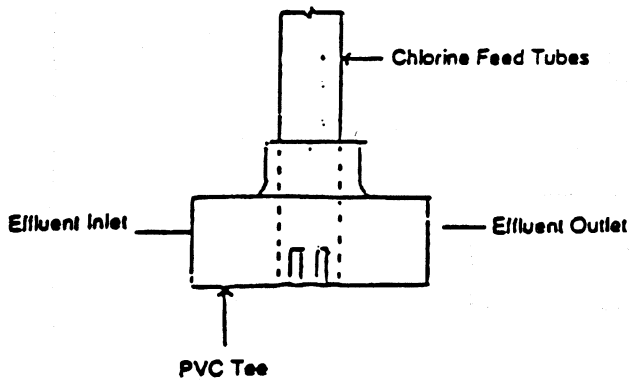
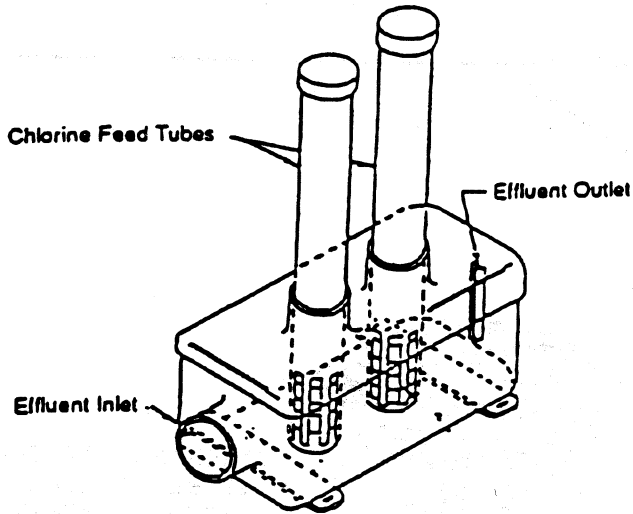


FIGURE 7A

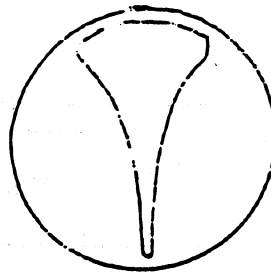
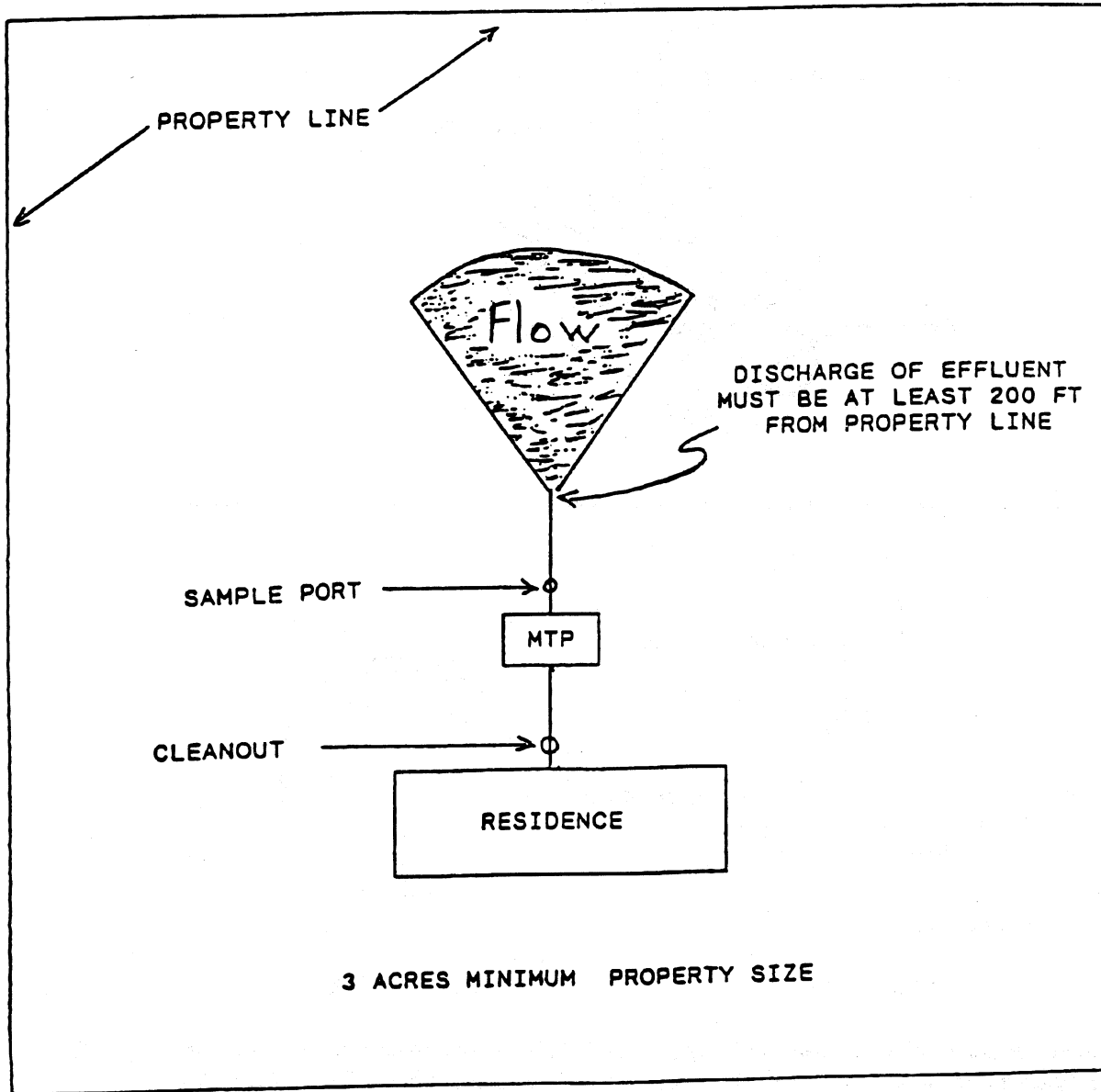


FIGURE 7B

Chlorinators can be purchased pre-manufactured as in FIGURE 7 or can be constructed onsite using the following minimum criteria FIGURE 7A. Use a four inch minimum PVC TEE with a restrictive insert FIGURE 7B to control the effluent flow. This allows the tablets to be contacted by the effluent in proportion to the amount of flow. This insert is cemented onto the PVC TEE with the restriction down.

FIGURE 18
OVERLAND FLOW



Interested persons may submit written comments to the following address: Frank L. Deffes, Jr., Chief, Sanitarian Services, Box 60630, New Orleans, LA 70160, by the close of business on Monday, November 20, 1995. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing on the proposed changes will be held at the State Office Building Conference Room, 150 Third Street, Baton Rouge, LA on Wednesday, November 29 at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Sanitary Code, Chapter XIII (Effluent)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated cost or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Homeowners will have the cost of these effluent reduction systems.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment.

Eric T. Baumgartner, M.D.
Assistant Secretary
9510#049

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Annual Service Agreement

Under Authority of Act 390 of 1991 and in accordance with the provisions of R.S. 49:950 et. seq., The Department of Health and Hospitals proposes to adopt the following rule:

The text of this notice is printed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rule until 4:30 p.m. November 27, 1995, to Charles F. Castille, Deputy Secretary, Department of Health and Hospitals, Box 629, Baton Rouge, LA 70821-0629.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Annual Service Agreement

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no additional costs associated with this Service Agreement over and above the LHCA or DHH budgets for FY 95-96. The agreement proposes no services in addition to those budgeted for the year.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This Service Agreement will have no impact on revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs or benefits to nongovernmental persons or entities.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no effects on competition or employment.

Rose V. Forrest
Secretary
9510#043

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Informed Consent (LAC 48:I.2303)

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991, and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Louisiana Medical Disclosure Panel, is proposing to amend rules which require which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing any such treatment or procedure.

Title 48

PUBLIC HEALTH

Part I. General Administration

Chapter 23. Informed Consent
§2303. Female Genital System Treatments and Procedures

* * *

B. Delivery (Cesarean Section)

1. infection;
2. injury to bladder and/or rectum, including a fistula (abnormal hole) between bladder and vagina and/or rectum and vagina;
3. hemorrhage possibly requiring blood administration and/or hysterectomy and/or artery ligation to control;
4. sterility;
5. brain damage, injury, or even death occurring to the fetus before or during labor and/or cesarean delivery whether or not the cause is known;
6. uterine disease or injury requiring hysterectomy;
7. pulmonary embolus;
8. disfiguring scarring.

NOTE: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 18:1391 (December 1992); amended LR 19:1581 (December 1993); amended LR 22:

Interested persons may submit written comments by November 28, 1995, to Donald J. Palmisano, M.D., J.D., Chairman, Louisiana Medical Disclosure Panel, Department of Health and Hospitals, Box 1349, Baton Rouge, LA 70821-1349. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 10 a.m., November 28, 1995, Department of Health and Hospitals, Third Floor Library, 1201 Capitol Access Road, Baton Rouge, LA 70802. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Informed Consent
Female Genital Systems**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There are no implementation costs anticipated from the adoption of these rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

The proposed rules 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
NONGOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no effect projected on competition and employment from implementation of these rules.

Charles F. Castille
Deputy Secretary
9410#051

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary**

Informed Consent (LAC 48:I.2449)

As authorized by R.S. 40:1299.40(E), as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991, and Act 633 of 1993, the Department of Health and Hospitals, Office of the Secretary, in consultation with the Louisiana Medical Disclosure Panel, is proposing to adopt rules which require which risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing any such treatment or procedure.

**TITLE 48
PUBLIC HEALTH**

Part I. General Administration

Chapter 23. Informed Consent

§2449. Urology

NOTE: Itemization of the procedures and risks under a particular specialty does not preclude other qualified practitioners from using those risks identified for that particular procedure.

A. Nephrectomy (complete or partial removal of kidney)

1. bleeding;
2. infection;
3. injury to adjacent organs such as lung, spleen, liver, bowel, adrenal gland (if not removed);
4. incomplete removal of tumor, if present.

B. Extracorporeal Shock Wave Lithotripsy (using shock waves to break up kidney or ureteral stones)

1. bleeding in or around kidney;

2. obstruction of kidney by stone particles;
3. failure to completely fragment stone requiring repeat treatment or other form of treatment;
4. high blood pressure (transient or permanent);
5. loss of kidney.

C. Cystectomy with Urinary Diversion (removal of bladder with use of bowel to drain urine)

1. bleeding requiring blood transfusion;
2. infection;
3. injury to adjacent organs (bowel, blood vessels, nerves, etc.);
4. impotence (loss of erection functions);
5. ostomy problems (scarring, infection) which might necessitate re-operation.

D. Transurethral Prostatectomy (use of lighted scope and cautery to internally remove portion of prostate causing blockage)

1. bleeding requiring transfusion or re-operation;
2. infection;
3. injury to bladder or urethra or rectum;
4. impotence;
5. retrograde ejaculation ("dry ejaculation"-backward flow of ejaculate fluid into bladder) producing infertility;
6. bladder neck contracture—formation of scar tissue causing bladder blockage requiring repeat surgery or treatment;
7. incontinence (urinary leakage).

E. Radical Prostatectomy (total removal of prostate gland)

1. bleeding;
2. infection;
3. injury to adjacent organs (blood vessels, bowel, nerves);
4. blockage of ureters (kidney drainage tubes);
5. erectile dysfunction (impotence, i.e., loss of erection/ejaculation);
6. incontinence (urinary leakage).

F. Bladder Suspension (MMR, Purerya - Procedure, Cystocele repair, etc.)

1. bleeding;
2. infection;
3. blockage of ureters (kidney drainage tubes);
4. persistent leakage;
5. urinary fistula (abnormal hole in connection between bladder, vagina, etc.);
6. inability to void.

G. Vasectomy

1. bleeding;
2. infection;
3. testicular swelling or pain/possible loss of testicular function;
4. spermatic granuloma (nodule in cord at site of surgery);

5. recanalization ("re-connection" of vas tube resulting in becoming fertile again).

H. Penile Implant

1. bleeding;
2. infection (with possible loss of implant);
3. penile pain or numbness;
4. injury to bladder or urethra;
5. problems with implantable prosthetic.

I. Orchiectomy (removal of testicle)

1. bleeding;
2. infection;
3. loss of hormone (testosterone) resulting in erection problems, decreased energy, etc.;
4. loss of fertility (ability to have children).

J. Varicocele Repair (ligation/tying of spermatic veins)

1. bleeding;
2. infection;
3. injury to spermatic cord (vas deferens), testicular artery, nerves;
4. testicular swelling or pain;
5. possible loss of testicle due to blood vessel injury or infection (rare).

K. Transurethral Resection of Bladder Tumor

1. bleeding;
2. infection;
3. perforation of bladder;
4. obstruction of ureter (kidney drainage tube).

L. Circumcision (removal of penile foreskin)

1. ulceration and scarring of urine hole at tip of penis (meatal stenosis);
2. bleeding;
3. infection (minor or serious);
4. removal of too much or too little skin;
5. skin bridge;
6. fistula (abnormal hole in urine tube);
7. buried penis.

M. Hernia/Hydrocele (removal of fluid filled sac)

1. injury to sperm duct (vas deferens);
2. injury to blood vessels of testis;
3. atrophy (shriveling) of the testicle with loss of function;
4. reaccumulation of hernia or fluid in scrotum.

N. Hypospadias Repair (Correction of Penile Curvature/Urethroplasty) (Construction/reconstruction of drainage tube from bladder)

1. leakage of urine at surgical site;
2. stricture formation;
3. residual curvature of penis;
4. disfiguring scars;
5. injury to glans (head of penis);
6. additional operations.

O. Ureteral Reimplantation (Reinserting ureter, tube between kidney and bladder, into the bladder)

1. leakage of urine at surgical site;
2. obstruction to urine flow;

3. damage to or loss of ureter (kidney drainage tube);
4. backward flow of urine from bladder into ureter (kidney drainage tube);
5. damage to other adjacent organs;
6. damage to kidney.

P. Pyeloplasty (pyeloureteroplasty - reconstruction of kidney drainage system)

1. obstruction of urinary flow;
2. leakage of urine at surgical site;
3. injury to or loss of kidney;
4. damage to adjacent organs;
5. decrease in kidney function- temporary/permanent;
6. infection with resultant failure of surgery and/or loss of kidney function.

Q. Orchiopexy (surgically placing an undescended testicle into the scrotum)

1. atrophy (shriveling) of the testicle with loss of function;
2. removal of the testicle;
3. injury to the vas deferens;
4. inability to completely bring the testicle into the scrotum in a single surgical procedure;
5. recurrent hernia formation;
6. infraction with possible loss of testicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.40(E) et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, LR 22:

Interested persons may submit written comments by November 28, 1995, to Donald J. Palmisano, M.D., J.D., Chairman, Louisiana Medical Disclosure Panel, Department of Health and Hospitals, Box 1349, Baton Rouge, LA 70821-1349. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 10 a.m., November 28, 1995, Department of Health and Hospitals, Third Floor Library, 1201 Capitol Access Road, Baton Rouge, LA 70802. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Informed Consent-Urology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs anticipated from the adoption of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules 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 NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition and employment from implementation of these rules.

Charles L. Castille
Deputy Secretary
9510#052

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Emergency Ambulance Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:46:153 and pursuant Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Medicaid payment for emergency ambulances services has been made in accordance with Medicare's allowance for an "all-inclusive" rate so that the Medicaid payment for the transport, supplies, oxygen and all other ancillaries were included in the payment for a procedure. Effective April 1, 1995 the HCFA will terminate such "all inclusive" billing and will require emergency ambulance providers to bill ancillaries separately. Therefore to remain congruent with Medicare payment for emergency ambulance services as required by state law and to protect the health and welfare of Medicaid recipients, the bureau proposes to adopt the following rule to reimburse emergency ambulance services in accordance with the Medicare rates. In addition, the following proposed rule specifies the emergency ambulance services which will be reimbursed by Medicaid.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to reimburse medically-necessary emergency ambulance services in accordance with Medicare's established rates for an emergency ambulance transport and mileage,

oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount which is to be paid by any liable third-party coverage.

All Advanced Life Support (ALS) and Basic Life Support (BLS) ambulance services must be certified by the Department of Health and Hospitals, Bureau of Health Services Financing in order to receive Medicaid reimbursement and all ALS or BLS services must be provided in accordance with the state law and regulations governing the administration of these services. All (ALS) and (BLS) ambulance services must comply with the state law and regulations governing the personnel certifications of the emergency medical technicians administered by the Department of Health and Hospital's Bureau of Emergency Medical Services. The department will ensure through post pay review that all services are medically appropriate for the level of care billed and have been provided in accordance with the ALS or BLS certification level of the ambulance service.

Interested persons may submit written comments to Thomas D. Collins, 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., Monday, November 27, 1995, in the 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. The deadline for the receipt of all comments is 4:30 p.m., the day of the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Emergency Ambulance Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$282,362 for SFY 1996; \$426,425 SFY 1997 and \$447,746 SFY 1998.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will increase federal revenue collections by approximately \$728,962 for SFY 1996; \$1,090,561 for SFY 1997 and \$1,145,089 for SFY 1998.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9510#070

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Tuberculosis-Infected Individuals Coverage

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 13603(b) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) added to the Social Security Act a new optional eligibility group of tuberculosis (TB)-infected individuals and specifies the TB-related services for the treatment of persons infected with tuberculosis. The department has witnessed the existence of a significant statewide increase in the number of cases of active tuberculosis. In order to reduce the number of active treatable cases, to prevent spread of this disease and affect its arrest among infected persons and therefore to protect the public from this imminent peril to their health and welfare; the department proposes to adopt the following rule to add Medicaid coverage for TB-infected individuals in accordance with the Social Security Act.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides Medicaid coverage for specific services to eligible individuals who have been diagnosed as or are suspected of being infected with tuberculosis.

The financial eligibility of these persons will be determined in accordance with the income and resource standards for the Supplemental Security Income eligibility group. These individuals must meet all general

nonfinancial requirements or conditions of eligibility for Medicaid coverage including compliance with the application, residency and assignment of rights requirements. Medically needy spend-down provisions are not applicable to this category of eligibles. Medical eligibility is to be determined by the Medical Eligibility Determination Team regarding their status as TB-infective. Medicaid coverage for medical and health services to this new optional group is limited to the following specific services which must be provided for the purpose of treating an individual's tuberculosis infection. Allowable services include services to diagnose and confirm the presence of the infection including physician, pharmacy, laboratory and X-ray, rural health clinics, Federally Qualified Health Centers services, outpatient hospital services, clinic services and directly observed therapy. Coverage for outpatient hospital services, clinic and directly observed therapy services is restricted to outpatients only. Medicaid coverage does not include inpatient hospital or nursing facility services or room and board for the new group of eligibles. Current Medicaid recipients who are or who become TB-infected are eligible to receive the directly observed therapy services on an outpatient basis for the treatment of their tuberculosis condition.

The reimbursement for physician, pharmacy, laboratory and x-ray, rural health clinics, Federally Qualified Health Centers, outpatient hospital services and clinic services provided to individuals infected with tuberculosis is made according to established regulations and policy for the reimbursement of these services under the Medicaid Program. The reimbursement for the provision of the new service, directly observed therapy is paid as a TB clinic service to the Office of Public Health at a prospective fee for service rate established by the Medicaid Program.

Interested persons may submit written comments to the following address: Thomas D. Collins, 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, November 27, 1995, in the 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. The deadline for the receipt of all comments is 4:30 p.m. the day of the public hearing.

Rose V. Forrest
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid Coverage for TB- Infected Persons for TB-Related Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state expenditures for Medicaid coverage for TB related services by approximately \$125,188 for SFY 1995-1996; \$158,594 for SFY 1996-1997; and \$166,524 for SFY 1997-1998.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that federal revenue collections for Medicaid coverage for TB-related services will increase by approximately \$322,682 for SFY 1995-96; \$405,597 for SFY 1996-97 and \$425,877 for SFY 1997-1998.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the medical providers serving this new group of eligibles will experience the combined state and federal expenditure increases shown above for the provision of these services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Thomas D. Collins
Director
9510#069

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Insurance Commissioner of Insurance

Automobile Insurance Plain Language—Regulation 54

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Commissioner of Insurance intends to adopt the following regulation to implement Act 959 of the 1993 Regular Legislative Session (R.S. 22:622.1). The regulation mandates the use of plain language and certain standardized provisions in automobile insurance policies. The purpose of the regulation is to protect the interests of policyholders and to promote consumer awareness. A preamble has not been prepared by the agency.

Section 1. Purpose

A. The purpose of the plain language requirement and the mandatory format is to insure that all automobile insurance policies (hereafter sometimes referred to as

"policies") issued, delivered or used in Louisiana are drafted in a manner that can be easily understood by the average automobile insurance policyholder and to facilitate consumer awareness.

B. The purpose of the mandatory policy provisions requirements is to insure that all policies issued, delivered or used in Louisiana contain provisions that correctly set forth the rights and obligations of policyholders under Louisiana law.

Section 2. Authority

This regulation is promulgated under the authority granted to the commissioner by R.S. 22:622.1 of the Insurance Code.

Section 3. Applicability and Scope

This regulation shall apply to all insurers issuing or issuing for delivery or use in Louisiana automobile insurance policies. The changes required by this regulation are applicable to all new or renewal policies written on or after 120 days after the effective date of this regulation.

Section 4. General Provisions

A. The commissioner shall make available a copy of the standards for plain language as described in Section 5 to each insurer subject to the provisions of this regulation. Upon request, a copy shall be made available to policyholders and members of the public.

B. Insurers shall file all automobile insurance policies revised in accordance with this regulation with the commissioner not less than 45 days in advance of issuance, delivery or use in this state. No revised policy or endorsement may be used until it has been approved by the commissioner as provided in R.S. 22:620.

C. The commissioner's disapproval of a filing may be appealed pursuant to Title 22, Part XXIX.

Section 5. Legibility and Comprehension Standards

The following standards will govern the legibility and comprehension requirements of automobile insurance policies.

A. A policy must include:

1. table of contents or a summary of the organization of the policy;
2. printing in not less than 10 point type (one point equals 0.01384 inch or approximately 1/72 of an inch), one point of space between each line, except for the declarations page, schedules and tables;
3. sufficient contrast between ink and paper to insure legibility;
4. captions, headings and spacing where necessary to increase legibility and clarity;
5. short sentences written in ordinary, conversational language.

B. A policy shall avoid:

1. sentences containing double negatives or exceptions to exceptions;

2. sentences or sections in an illogical or confusing order;

3. technical terms or words with special or unusual meanings, where possible;

4. words or terms with obsolete meanings; and

5. Old English, Middle English, Latin and other non-English words. However, this provision shall not be construed to prohibit the issuance of bilingual policies.

C. Policies shall be scored for legibility under the Flesch Reading Ease Test. A score of less than 40 shall be deemed unacceptable, resulting in an automatic rejection of the policy. For the purpose of this regulation a Flesch Reading Ease Test shall be scored by the following method:

1. For a policy containing ten thousand words or less of text, the entire text shall be analyzed. For a policy containing more than 10,000 words, the readability of two 100-word samples per page may be analyzed instead. The samples shall be separated by at least 20 printed lines.

2. The total number of words in the text or sample shall be divided by the total number of sentences. The figure obtained shall be multiplied by 1.015.

3. The total number of syllables in the text or sample shall be divided by the total number of words. The figure obtained shall be multiplied by 84.6.

4. The sum of the numbers computed under Paragraphs 2 and 3, above, subtracted from 206.835 equals the Flesch Reading Ease Test score.

5. In determining the number of words, syllables or sentences the following shall govern:

- a. contractions, hyphenated words, numbers and letters, when separated by spaces, shall be counted as one word;

- b. a unit of text ending with a period, semicolon or colon shall be counted as one sentence; and

- c. a syllable means a unit of spoken language consisting of one or more letters of a word as divided by a commonly accepted dictionary. Where the dictionary shows two or more equally accepted pronunciations of a word, the pronunciations using fewer syllables shall be used.

ALL FORM FILINGS SHALL BE ACCOMPANIED BY A "RESULTS AND READABILITY CERTIFICATE" CERTIFYING THE POLICY'S READABILITY SCORE. THE DOI WILL DO RANDOM REVIEWS TO ASSURE COMPLIANCE.

6. The term "text" as used in this regulation includes all printed matter except: the name and address of the insurer; the name, number or title of the policy; the table of contents or summary of the organization of the policy; headings and captions; and declarations pages, schedules or tables.

Section 6. Policy Format

A. Personal Automobile Policy. All personal automobile policies shall be in the format used in the

standard ISO personal automobile policy, or in a format substantially similar to that used by the ISO policy.

B. Commercial Automobile Policy. All commercial automobile policies shall be in the format used in the standard ISO commercial automobile policy, or in a format substantially similar to that used by the ISO policy.

Section 7. Policy Provisions

The following provisions whether included in the policy or in a Louisiana Amendatory Endorsement, must in substance be in the following form, or in a form which in the opinion of the commissioner is not less favorable to the policyholder.

A. Representations and Warranties. No oral or written misstatement or misrepresentation in the application or in the presentation of a claim shall be deemed material, nor void the policy or serve as grounds for denial of coverage unless the misstatement or misrepresentation was made with the intent to deceive.

B. Arbitration. The policy may include a provision for arbitration. However, any such arbitration provision must provide:

1. that arbitration can be triggered only by mutual consent and that the insured has the option to refuse to arbitrate, without penalty;
2. that by agreeing to arbitration the insured is not deprived of his right to bring suit;
3. that the time limit to bring suit is interrupted during the time that the matter is under arbitration and that it starts to run again commencing the day after the arbitration has concluded;
4. include a reasonable time limit within which the arbitration must be concluded;
5. include a reasonable time limit within which either party must accept or reject the decision of the arbitrator(s). (This time period shall not extend the time when prescription runs) and;
6. in any judicial action involving any matter submitted to arbitration the legal and factual findings of the arbitrator(s) shall not be conclusive and the court may hear the matter without any limitation or restriction.

C. Action Against Company. Each policy subject to this regulation must include language which informs the insured or other interested party that injured persons or their legal representative may bring an action directly against the insurer without the necessity of first obtaining a separate judgment against the insured. Compliance with all of the terms of the policy may not be made a condition to bringing an action.

D. Notice and Compliance. Any policy language which expressly or implicitly gives the insurer the right to deny or defeat coverage because of either late notice or noncompliance with the terms and conditions of the coverage must be modified to provide that failure to comply with the terms and conditions of the policy shall not defeat coverage in the absence of proof of actual

prejudice to the insurer. The term "condition precedent" shall not be used in any policy subject to this regulation.

E. Medical Payments. Any policy which provides coverage for medical payments shall include language clearly indicating that the coverage is primary over any other policy or plan providing coverage for medical and funeral services. The policy may include a provision for coordinating benefits to prevent duplicate payments.

F. Physical Damage. Any policy which provides coverage for physical damage to covered motor vehicles may include a "betterment" provision. However, any such provision must provide that a deduction or depreciation of the claim for betterment is allowed only if the deductions:

1. Reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle;
2. Reflect the general overall condition of the vehicle, considering its age, for either or both:
 - a. the wear and tear on consumable parts, or rust, limited to a deduction of no more than \$500; and/or
 - b. missing parts, limited to no more than the replacement cost of such part or parts.

The policy shall provide that the basis for determining a reduction or depreciation for betterment shall be the actual cash value of the entire vehicle before the repair or replacement compared to its value after the repair or replacement. Any such deduction shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions. All information for such deduction shall be contained in the claim file and shall be made available to the insured upon request.

G. Consent to Settle. If the policy provides uninsured or underinsured coverage, consent of the insurer shall not be made a requirement to the insured instituting suit or settling a claim against the underinsured driver.

H. Subrogation. A subrogation provision shall be titled as such and other terms such as "reimbursement" or "trust agreement" shall not be utilized in the title or in the text of the provision. The provision shall be as follows or substantially similar thereto:

In the event of payment under this policy and if the person to whom, or on whose behalf, payment was made has the right to recover from another person, then to the extent of such payment we shall be subrogated to all rights of recovery therefor. The insured shall execute all papers required and shall do everything that may be necessary to enable us to exercise our rights. However, any right we may have shall not accrue until the insured has been made whole.

Section 8. Policyholder Complaints, Hearing

A. A policyholder who objects to a policy approved by the commissioner on the basis that the policy fails to meet the standards imposed by this regulation may file a complaint with the commissioner no later than 30 days after the date that the policyholder receives the policy. The

complaint must be made in writing, include a copy of the policy and state the reason or reasons that the policyholder believes the policy is not in compliance. The complaint shall be addressed to the commissioner of Insurance, Box 94214, Baton Rouge, LA 70804-9214, Attention: Market Conduct Division.

The commissioner will respond in writing to the complaint within a reasonable time period. The commissioner may reject the complaint, stating the reasons for the rejection, or give notification that approval of the policy will be reconsidered. If the policy is to be reconsidered, the insurer shall be notified at the same time that the policyholder is given notification of the reconsideration. Notice of the final decision shall be in writing and shall be given to the insurer and the policyholder. If the approval is withdrawn, the notice shall state the reasons for the withdrawal.

B. Either party, if aggrieved by the action or inaction of the commissioner, may request a hearing in accordance with Title 22, Part XXIX.

Section 9. Failure to Comply

Noncompliance with the requirements of this regulation may result in the suspension, revocation or nonrenewal of an insurer's Certificate of Authority or in lieu of suspension or revocation the imposition of a fine as authorized by R.S. 22:1457A.

Section 10. Severability

If any section or provision of this regulation is held invalid, such invalidity shall not affect other sections or provisions which can be given effect without the invalid section or provision, and for this purpose the sections and provisions of this regulation are severable.

Section 11. Effective Date

This regulation shall take effect upon final publication in the *Louisiana Register*. Insurers subject to this regulation will have 180 days after the date of final publication to bring their policies into compliance with the regulation.

The effective date for proposed Regulation 54—Automobile Insurance Standard Policy Provisions, is January 20, 1996. Copies of the proposed regulation may be obtained from the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804 or from the Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, attention: C. Noël Wertz.

Interested parties may submit comments or make a request for a hearing on the proposed regulation until 4:30 p.m., November 10, 1995 directed to C. Noël Wertz at the address above or by telephone at (504) 342-1252.

James H. "Jim" Brown
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 54—Plain Language in Automobile Insurance Policies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the Department of Insurance or any local governmental unit will incur any costs or savings as a result of implementing this proposed regulation. The proposed regulation does not impose any new duties on the department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this proposed regulation will not have any effect on revenue collections by the local governmental units. However, since a provision is provided for an imposition of a fine for noncompliance with the requirements of this regulation, it is possible that additional revenue could be generated for the Louisiana Department of Insurance; however, there is insufficient data to determine the amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is insufficient data to determine if this proposed regulation will impose any additional costs or economic benefits to the automobile insurers. Insurers will incur costs as a result of redrafting and reprinting their policies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that there will be any effect on either competition or employment resulting from the adoption of this proposed regulation.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9510#015

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Labor Office of Workers' Compensation

Compliance Penalty (LAC 40:I.109)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby gives notice that

rulemaking procedures have been initiated to amend the Office of Workers' Compensation Rules, LAC 40:I.109, General and Administrative; Compliance Penalties.

The provisions of this rule are contained in Act 246 of the 1995 Regular Session and will provide for a penalty not to exceed \$500 for failing to comply with any rule or regulation adopted under the Office of Workers' Compensation Act. Penalties may be imposed after a contradictory hearing before the director or his designee and any penalty may be appealed by filing a Disputed Claims Form, LDOL-WC-1008.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Chapter 1. General Provisions

§109. Compliance Penalty

A. Unless otherwise provided for in the rules of the Office of Workers' Compensation, a person or entity that fails to comply with any rule or regulation adopted under the provisions of the Workers' Compensation Act may be penalized with a fine not to exceed \$500.

B. Penalties may be imposed pursuant to this rule after a contradictory hearing before the director or his designee.

C. A person or entity may appeal any penalty imposed pursuant to this rule by filing a Disputed Claim Form, LDOL-WC-1008, in the district where the person or entity is located or in Baton Rouge, Louisiana. Any penalty imposed pursuant to this rule becomes final and may be pursued for collection unless such an appeal is filed within 30 days of the notice of the penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291(B)(13).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 11:775 (August 1985), repealed and repromulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:357 (April 1991), amended by the Department of Labor, Office of Workers' Compensation, LR 22:

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than November 24, 1995, at 4:15 p.m., to O. Larry Wilson, Assistant Secretary, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040 or 1001 North 23rd Street, Baton Rouge, LA 70802 or to FAX number (504) 342-5665.

O. Larry Wilson
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Compliance Penalty

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs or savings accruing to state or local governmental units as the result of implementing these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is a potential increase in revenue collection of the Office of Workers' Compensation as a result of penalties to be paid by parties failing to comply with the rules and regulations of the Office of Workers' Compensation. It is not possible to estimate the scope of these revenues at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These rules facilitate the administration of the Office of Workers' Compensation in fulfilling its various functions. The rules will benefit the public and more particularly insurers and self-insurers by encouraging others similarly situated to comply with the rules and regulations thus reducing the cost of administering the system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules are designed to facilitate the administration of the Office of Workers' Compensation and as such will not directly affect employment or competition.

O. Larry Wilson
Assistant Secretary
9510#071

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Labor Office of Workers' Compensation Second Injury Board

Assessment and Timely Filing
(LAC 40:III.107 and 301-307)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., R.S. 23:1376 and R.S. 23:1377, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation Administration, Second Injury Board ("the board") hereby gives notice that rulemaking procedures have been initiated to amend Chapter 1, §107 and to provide new rules in Chapter 3 of Part III of LAC 40.

The changes to the rules are necessary to allow the board, under Acts 1995 Number 188, effective June 12, 1995, to administer the Second Injury Fund reimbursement program in a timely manner and in order to do so, the board must assess, notify entities, and collect such assessments before the 1996 calendar year. Without rules and regulations, the assessment cannot be timely made; therefore, time is of the essence to implement the rules for administration of the program under law. These proposed rules are also necessary for compliance with Acts 1995 Number 245, effective June 14, 1995, to require

Number 245, effective June 14, 1995, to require presentation of claims to the board within one year after the first payment of either compensation or medical benefits.

These proposed rules are scheduled to become effective January 20, 1996.

Title 40

LABOR AND EMPLOYMENT

Part III. Workers' Compensation

Second Injury Board

Chapter 1. General Provisions

§107. Presentation of Claim for Reimbursement from Second Injury Fund, Timely Filing Thereof

Within one year after the first payment of either compensation or medical benefits, the employer or his insurer, whichever of them makes the payments or becomes liable therefor, shall notify the board in writing of such facts and furnish such other information as may be required for the board to determine if the employer or his insurer is entitled to reimbursement from the Workers' Compensation Second Injury Fund. No employer, insurer, servicing agent or self-insured association shall be reimbursed unless the board is notified within one year from the date of the first payment of either compensation or medical benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Workmen's Compensation Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), amended by the Department of Labor, Workmen's Compensation Second Injury Board, LR 3:49 (December 1977), amended and repromulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 17:179 (February 1991), amended by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:

Chapter 3. Assessments

§301. Assessment; Calculation of Rate

A. The board shall determine the amount of the total assessment to be collected which shall not exceed 125 percent of the disbursements made from the fund in the preceding fiscal year.

B. The assessment rate shall be calculated by dividing the total assessment by the total workers' compensation benefits as reported to the Office of Workers' Compensation on form LDOL-WC-1000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:

§303. Assessment; Due Date; Notice

A. Each reporting entity shall be assessed an amount determined by multiplying the assessment rate times the

total reported workers' compensation benefits paid by that entity.

B. The board shall set the date that the assessment shall be due and shall provide notice to all entities assessed at least 30 days prior to such due date.

C. An assessment notice shall be prepared and mailed to each entity filing an annual report and for which an assessment is due. The notice shall be sent certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:

§305. Assessments - Failure to Pay; Penalties; Collection

A. Any entity assessed, shall remit the amount of the assessment within 30 days of the date of notice or by the due date set forth in the notice if greater than 30 days. The official United States Postal Department postmark shall be the basis for determining compliance with this requirement.

B. Any entity failing to pay by the due date may be assessed a penalty of 20 percent of the unpaid assessment for each 30 days, or portion thereof, that the assessment remains unpaid.

C. Payments received by the office shall be applied first to penalties assessed and then to the outstanding second injury fund assessment.

D. The assessment and/or penalties imposed pursuant to this section shall be pursued for collection by the procedures used for collection of an open account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:

§307. Ineligibility for Reimbursement

A. Any entity required by law to make an annual payment or payments into the fund, but which has not made such annual payment or payments, shall be ineligible for reimbursement from the fund for injuries occurring during such period of non-payment of assessment.

B. Except as provided in R.S. 23:1378(A)(7), any entity that is not required by law to make an annual payment or payments into the fund shall be ineligible for reimbursement from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:

All interested persons are invited to submit written comments on the proposed amendments and regulations. Such comments should be submitted no later than November 1, 1995 at 4:30 p.m. to O. Larry Wilson,

Chairman, Office of Workers' Compensation Administration, Second Injury Board, 1001 North Twenty-third Street, Box 44187, Baton Rouge, LA 70804-4187 or to FAX number (504) 342-7593.

O. Larry Wilson
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Second Injury Fund**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

None. A cost savings may be realized to the Second Injury Board in the processing of the assessment.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

The new formula for assessments proposed by these rules, as stipulated in Act 188 of 1995, will result in additional self-generated revenue collections of approximately \$4 million annually.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Implementing the rules will not increase cost, but merely establish the method of the collection of the assessment and provide for appeals.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

None. the change in the assessment should result in a fairer and more equitable assessment to the employers and insurance carriers.

O. Larry Wilson
Assistant Secretary
9510#010

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Charitable Gaming Control Division**

**Charitable Bingo, Keno, Raffle
(LAC 42:I.1732, 1789, 1791)**

The Department of Public Safety and Corrections, Office of State Police, Division of Charitable Gaming Control, in accordance with R.S. 33:4861.12, R.S. 33:4861.26, R.S. 36:408, R.S. 40:1485.4, and R.S. 49:950 et seq., and Acts 1995, Numbers 557 and 1154, effective August 15, 1995, gives notice that rule making procedures have been instituted to adopt LAC 42:I.1732 which provides for the compensation of workers and the payment of meals and beverages for certain employees or

workers of licensed charitable organizations, to amend LAC 42:I.1789.A to effectively repeal the amendment to said Section promulgated and published as a rule in the *Louisiana Register* on May 20, 1995 (LR 21:472) since it has been overruled by Acts 1995, Number 1154, to adopt LAC 42:I.1789.K which provides that organizations may establish a maximum jackpot or cap and once reached continue contributions in order to accumulate a second or subsequent jackpot and other related matters, and to adopt LAC 42:I.1791 which authorizes an regulates a new form of bingo known as progressive mega jackpot bingo and for related matters.

The full text of the proposed rules were published as an emergency rule, effective October 3, 1995, and published in this issue (October 20, 1995) of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rule to Lieutenant James C. McKenzie, Director, Division of Charitable Gaming Control, Office of state Police, Louisiana Department of Public Safety and Corrections, Box 66614 (52), Baton Rouge, LA 70896. Lieutenant McKenzie is the person responsible for responding to comments regarding the proposed rule. Written comments will be accepted through the close of business, 4:30 p.m., on November 27, 1995.

Colonel Paul W. Fontenot
Superintendent

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Compensation of Workers;
Progressive Bingo; Mega Jackpot Bingo**

**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 \$1,997.28. It will have no impact on local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

It is anticipated that the division and local governmental units that permit the play of bingo may experience an increase in revenue collections in the form of use fees collected on nondisposable bingo paper in the event that the play of the progressive bingo and progressive mega jackpot bingo games increase the sale of bingo paper as a result of the probable increase in organizational patronage at licensed bingo sessions.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

It is anticipated that participating charitable organizations may experience a significant increase in gaming revenues as a result of the proposed rule. Commercial and noncommercial locations may experience a minimal one

time cost for equipment in the event they choose to accommodate charitable organizations that choose to participate in the progressive mega jackpot bingo game.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Rex McDonald
Undersecretary
9510#011

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Revenue and Taxation
Office of the Secretary**

**Signature Alternatives-Electronic Filings
(LAC 61:I.4905)**

Under the authority of R.S. 47:1520 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Office of the Secretary, proposes to adopt LAC 61:I.4905 to provide for a signature alternative for tax returns filed electronically.

The department is in the process of implementing several electronic filing programs. Tax return information is transmitted electronically, which eliminates the need for paper returns and the accompanying manual processing. Many of the department's tax statutes require that the tax returns have a written signature or declaration. This proposed rule would provide for an alternative to the signature/written declaration requirement for tax returns filed electronically or through other alternative nonpaper means.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue and Taxation**

Chapter 49. Tax Collection

§4905. Signature Alternatives; Electronic Filings

A. As authorized by R.S. 47:1520, the following alternate methods for signing, subscribing, or verifying tax returns, statements, or other documents filed by electronic means are allowed and shall have the same validity and consequence as the actual signature and/or written declaration.

B. Electronic Filing. The following alternatives, as determined by the secretary, are allowed for submitting a written signature/declaration for tax returns transmitted electronically by the taxpayer or the taxpayer's agent:

1. the taxpayer's signature document maintained by the electronic filer on file and secure for a period of three

years from December 31 of the year in which the taxes were due;

2. the taxpayer's signature on a trading partner agreement with the department; or

3. an electronic signature as determined by the secretary.

C. Telefiling. For tax returns filed by the taxpayer using a touch-tone telephone to transmit return information, a voice recording of the taxpayer, and spouse for married taxpayers filing joint returns, will serve as a signature alternative. The voice recording will be maintained by the department for a period of three years from December 31 of the year in which the taxes were due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 22:

All interested persons may submit data, views, or arguments, in writing to Ellen Rhorer, Director of the Research and Technical Services Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m., Monday, November 27, 1995. A public hearing will be held on Tuesday, November 28, 1995, at 1:30 p.m. in the Department of Revenue and Taxation Secretary's conference room, 330 North Ardenwood Drive, Baton Rouge, LA.

Ben Morrison
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Signature Alternatives-Electronic Filings

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

This proposed rule would result in an indeterminable cost savings to the department based on the reduced paper processing, handling, and storage of signature documents.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)**

There should be no effect on revenue collections of state or local governmental units as a result of this proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Tax preparers and tax payers who file their tax returns electronically should realize a cost savings based on reduced signature document processing and mailing. Tax preparers that will be required to maintain the signature documents on

file for a period of three years will incur a minimal cost of maintaining these files.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have no effect on competition or employment.

Ben Morrison
Secretary
9510#072

David W. Hood
Senior Fiscal Analyst

Joe L. Herring
Secretary

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

Oyster Lessee (LAC 76:VII.515)

The Department of Wildlife and Fisheries does hereby give notice of their intent to establish regulations for the landing of oysters outside the state.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§515. Oyster Lessee Out-of-State Landing Program

A lessee legally harvesting oysters which have been properly tagged from his own lease may land those oysters outside the state if the vessel operating in his behalf has on board a permit for that vessel issued by the Department of Wildlife and Fisheries. This permit does not exempt the lessee from any of the rules, regulations and license requirements of this and other state agencies and of the other states as they pertain to the interstate shipment of shellfish. These permits may be obtained from the Baton Rouge and New Orleans Licensing Offices of the Department of Wildlife and Fisheries and shall be valid for a period of one calendar year from January 1 through December 31. The cost of the permit shall be \$100. Permits shall include oyster lessee name, address, phone number, lease numbers, and vessel registration and shall not be transferable. In order to qualify for the permit, proof of lease ownership must be provided. The permit shall be on board the vessel during transport. Transport logs shall be completed and returned to the department at the end of each calendar month. Failure to provide the required transport logs may result in suspension or revocation of the permit, at the discretion of the department. Failure to abide by all permit requirements may result in loss of the permit and/or other legal action being taken against the permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:424(G).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 22:

Interested persons may submit written comments on the rule to Ron Dugas, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Tuesday, December 5, 1995.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Oyster Lessee

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Not able to determine at this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Not able to determine at this time. It will be more difficult to collect severance tax due this state on the oysters when the actual transaction occurs in another state. The department provides a log to be completed by the applicant to quantify the amount of oysters transported across state lines by vessel. Estimated revenue of \$1,000 per year through sale of permit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In the Mississippi/Louisiana situation, this program will allow for a shorter trip from harvesting grounds to the unloading docks thus reducing the transportation cost and improving the freshness and wholesomeness of the product.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on the number of employees. It may increase the competitiveness of some Louisiana oyster lessees with leases near Mississippi.

Fredrick Prejean, Sr.
Undersecretary
9510#014

David W. Hood
Senior Fiscal Analyst

Administrative Code Update

CUMULATIVE ADMINISTRATIVE CODE UPDATE January - September, 1995

LAC Title	Part.Section	Effect	Location LR 21	Month Page
4	VII.Chapter 9	Amended		Aug 801
	VII.957	Adopted		Sep 945
7	XV.Chapter 99	Adopted		Jan 17
	XV.9921	Amended		Jul 669
	XXIII.13139	Amended		Jul 668
	XXIII.13123	Amended		Sep 928
	XXIII.13140	Amended		Sep 927
	XXIII.13144	Adopted		Sep 928
	XXIII.13157	Amended		Sep 929
	XXV.14113,14135	Amended		Sep 930
	XXV.14153	Amended		Jul 671
	XXIX.1511	Amended		Jun 548
	XXXIX.20101	Amended		Sep 930
	XXXIX.20301	Amended		Jul 671
	XXXIX.Chapter 209	Adopted		Jul 670
10	III.545	Amended		Jul 675
13	I.201	Adopted		Mar 258
16	II.101,105	Amended		Sep 959
	III.501-515	Amended		Sep 950
19	VII.Subpart 5	Adopted		Jul 672
22	III.5301	Adopted		Jun 566
28	I.105	Amended		Jun 550
	I.903	Amended		Sep 934
	I.913	Amended		Aug 780
	I.915	Amended		Feb 163
	I.915	Amended		Mar 259
	I.917	Amended		Jul 676
	I.919	Amended		Jun 552
	I.929	Adopted		Mar 260
	I.943	Amended		May 463
	I.952	Adopted		Feb 167
	I.1515	Amended		Mar 259
	I.1521	Amended		Jul 676
	I.1523	Amended		Feb 168
	I.1523	Amended		May 464
	I.1527	Amended		Jul 677
	I.1710	Adopted		Jun 549
	IX.103,105,301-327	Amended		Feb 168
31	II.601,603,605	Adopted		Mar 262
33	I.Chapter 3	Adopted		Jun 555
	I.3931	Amended		Sep 943
	III.217	Amended		Aug 781
	III.223	Amended		Jan 22

III.223	Amended	Aug 782
III.223	Amended	Sep 942
III.505	Amended	Jul 678
III.509	Amended	Feb 170
III.615	Amended	Jul 681
III.907	Repealed	Sep 935
III.2116	Amended	Sep 941
III.2117	Amended	Jul 681
III.2120	Amended	Jan 23
III.2120	Repealed	Jul 683
III.2133	Amended	Jun 552
III.2147-2151	Adopted	Apr 380
III.2153	Adopted	Sep 936
III.2201,2203,2205	Repealed	Jul 681
III.Chapter 31	Amended	Mar 263
III.3113	Amended	Aug 781
III.3125	Amended	Jul 682
III.3140	Repromulgated	Apr 379
III.3261-3266	Amended	Apr 371
III.3265,3266	Repromulgated	May 464
III.3267,3268	Adopted	Apr 377
III.3301	Amended	Jul 682
III.5105	Amended	Apr 370
III.Chapter 60	Amended	Apr 370
V.Chapters 1-49	Amended	Mar 266
V.Chapters 1-49	Amended	Sep 944
V.303	Amended	Jun 564
V.Chapter 7	Amended	Jun 564
V.Chapters 11-51	Amended	Mar 267
V.Chapter 301	Amended	Aug 814
IX.711	Amended	Sep 945
IX.1123	Amended	Jul 683
IX.1309,1319	Amended	Aug 798
IX.Chapter 23	Adopted	Sep 945
XIII.1305	Repromulgated	Aug 796
XIII.1309,1313	Amended	Aug 797
XIII.1311	Repromulgated	Aug 797
XV.341	Adopted	Jun 554
XV.Ch 25, Apndx A	Amended	Sep 944
XV.550,777	Amended	Jun 554
XV.1401-1420	Amended	Jan 24
XV.2051	Amended	Jun 555
XV.2510,2512	Amended	Aug 791
XV.2513	Adopted	Aug 792
I.Chapters 3-27	Amended	Jun 566
III.505	Amended	Apr 393
I.1106	Amended	Mar 272
I.1113	Amended	Aug 814
I.1123-1129	Adopted	Jan 36
I.1131	Adopted	Mar 272
XI.Chapter 24	Committee Report	Feb 235
I.1789	Amended	May 472
XI.Chapter 24	Amended	Jun 582
XIII.109	Amended	Jul 703
XIII.Chapters 17-23	Amended	Jul 702
XIII.Chapters 25-45	Adopted	Jul 702
I.101*	Adopted	Feb 182
I.Chapter 7	Amended	Aug 835
I.Chapter 15	Amended	Sep 956
I.1901	Repromulgated	Mar 273
I.Chap.19-29**	Adopted	Apr 397
I.Chap.21-31	Repromulgated	May 471

	XI.133	Amended	Aug 824	55	III.129-141	Adopted	Feb 182
	XIII.Chap.1-29	Amended	Aug 821		III.701	Adopted	Feb 184
	XIII.1112	Adopted	Aug 821		IX.113	Amended	Jul 701
	XIII.2718	Adopted	Aug 823		IX.1549-1551	Repealed	Jul 701
	XIII.2929,2933,2937	Repealed	Aug 824		IX.1553-1611	Repealed	Jul 702
	XIII.2936	Adopted	Aug 824				
	XIII.Chapter 31	Amended	Aug 826	58	Part III	Adopted	May 473
	XIII.3111	Repromulgated	Sep 955				
	XIII.Chapter 33	Adopted	Aug 828	61	I.4301	Amended	Sep 957
					I.4373	Adopted	Feb 185
46	XXI.317	Amended	Sep 931		I.4408	Amended	Apr 401
	XXI.513,515,517	Adopted	Jan 21		V.Chapters 3-31	Amended	Feb 186
	XXI.611	Adopted	Sep 932				
	XXI.1101	Adopted	Jun 548	67	I.101	Amended	Jun 589
	XXV.119	Amended	Feb 174		I.103,105,107	Amended	Aug 838
	XXXIII.105	Adopted	Jun 571		III.201	Amended	Mar 273
	XXXIII.301	Amended	Jun 567		III.201	Amended	Sep 958
	XXXIII.306	Amended	Jun 571		III.Chapter 19	Amended	Feb 186
	XXXIII.310	Adopted	Jun 573		III.1981	Adopted	Sep 958
	XXXIII.502	Amended	Jun 569		III.4701,4702	Amended	Apr 402
	XXXIII.706	Amended	Jun 570		III.4702	Amended	Aug 837
	XXXIII.Chapter 12	Amended	Jun 572		V.203	Adopted	Aug 836
	XXXIII.Chapter 16	Amended	Jun 569		V.1103	Amended	Jun 583
	XXXVII.709	Repromulgated	Feb 175		VII.101	Repromulgated	Feb 189
	XLV.125	Amended	May 467		VII.101	Repromulgated	Feb 191
	XLV.411	Adopted	May 467		VII.101	Amended	May 473
	XLVII.937	Amended	Jul 684		VII.101	Amended	Aug 837
	XLVII.3331	Amended	Mar 271		VII.303,313	Amended	Jun 589
	XLVII.3349	Amended	Jun 574		VII.1301	Amended	Aug 838
	XLVII.3349,3351	Amended	Aug 804		VII.Chapter 17	Adopted	Jun 583
	XLVII.3356	Amended	Mar 267				
	XLVII.3356	Repromulgated	Aug 804	70	III.Chapter 3	Amended	Jun 590
	XLVII.Chapter 34	Adopted	Mar 269		III.1701-1705	Adopted	Jul 706
	XLVII.3539	Amended	Aug 803				
	XLVII.3542	Adopted	Aug 803	71	I.Subpart 2	Adopted	May 474
	XLIX.701	Repromulgated	Feb 175				
	LIV.Chap.1,3,5	Amended	Apr 394	73	III.301	Amended	Jul 706
	LVII.731	Adopted	Jun 582				
	LX.705	Amended	May 465	76	III.323	Adopted	Feb 194
	LXV.Chapter 1	Amended	Feb 159		VII.161	Amended	Feb 193
	LXV.Chapters 3,5	Repealed	Feb 162		VII.165	Amended	Sep 960
	LXVI.Chapter 12	Adopted	Feb 178		VII.169	Amended	May 477
	LXVII.2101-2105	Amended	May 461		VII.177	Adopted	Sep 961
	LXVII.2107	Repealed	May 461		VII.179	Adopted	Sep 960
	LXVII.4707	Amended	May 460		VII.201	Amended	May 477
	LXVII.4707	Repromulgated	Sep 932		VII.203	Amended	May 477
					VII.343	Amended	Jan 37
48	I.Chapter 18	Adopted	Apr 401		VII.513	Adopted	Jul 707
	I.2339-2345	Amended	May 469		VII.903	Amended	Jun 594
	I.2347	Amended	Jul 700				
	I.2432-2436	Adopted	May 471				
	I.2440,2442	Adopted	Jul 701				
	I.Chapter 91	Adopted	Feb 177				
	I.Chapter 93	Adopted	Feb 177				
	I.12501-12503	Repeal/Reprom.	Aug 806				
	III.901	Adopted	May 468				
	IX.107	Repromulgated	Aug 805				
	IX.Chapter 1	Amended	Jul 685				
	IX.Chapter 9	Adopted	Jul 694				

* incorrect codification--see §1901, March 1995

** incorrect codification--see Chap.21-29, May 1995

Potpourri

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**Department of Environmental Quality
Legal Affairs and Enforcement
Investigations and Regulation Development Division**

Semiannual Regulatory Agenda (Fall 1995)

The Department of Environmental Quality wishes to announce the availability of the fall 1995 edition of the semiannual regulatory agenda prepared by the Investigations and Regulation Development Division. The current agenda contains information on rules which have been proposed but have not been published as final and rules which are scheduled to be proposed in 1995 and 1996. Check or money order in the amount of \$1 is required in advance for each copy of the agenda.

Interested persons may obtain a copy by contacting Lana Alise, Department of Environmental Quality, Office of Legal Affairs and Enforcement, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884-2282 or by calling (504)765-0399.

James H. Brent, Ph.D.
Administrator

9510#085

POTPOURRI

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

Ozone Abatement

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that a change in the State Implementation Plan (SIP) for ozone abatement procedures has been initiated as follows:

The state of Louisiana proposes SIP revisions to incorporate regulations and negative declarations for Reasonable Available Control Technology (RACT) of Volatile Organic Compounds (VOC). This revision is required by Section 182 (b)(2) of the Clean Air Amendments of 1990 (CAAA), and is in accordance with Section 110 of the CAAA.

The SIP revision is applicable in ozone nonattainment areas, which include the following parishes: Ascension, East Baton Rouge, West Baton Rouge, Livingston,

Iberville, Pointe Coupee, and Calcasieu.

A copy of the proposed SIP revision may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m. at the following locations:

(1) Louisiana Department of Environmental Quality (LDEQ) Headquarters, 7290 Bluebonnet, Second Floor, Baton Rouge;

(2) LDEQ Capital Regional Office, 11720 Airline Highway, Baton Rouge;

(3) LDEQ Southwest Regional Office, 3519 Patrick Street, Lake Charles, LA 70605.

Copies of the SIP will also be distributed to depository libraries in the areas affected.

A public hearing on the SIP revision will be held on November 27, 1995, at 1:30 p.m., in Room 326 of the Maynard Ketchum Building, 7290 Bluebonnet, Baton Rouge, LA. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon. Open discussion within the audience will not occur during the hearing; however, a Louisiana Department of Environmental Quality (LDEQ) staff member will be available to discuss the proposal and answer questions after the hearing.

Should individuals with a disability need an accommodation in order to participate in the public hearing, please contact Pat Salvaggio at the contact points given below.

Comments on the SIP must be received no later than 4:30 p.m., December 4, 1995; and should be submitted to Pat Salvaggio at Office of Air Quality and Radiation Protection, Box 82135, Baton Rouge, LA 70884-2135; or to FAX (504) 765-0915.

Gus Von Bodungen
Assistant Secretary

9510#088

POTPOURRI

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

Part 70 Operating Permits (LAC 33:III.507.C.1.a)

The Department of Environmental Quality, Office of Air Quality and Radiation Protection is announcing early call for Title V Operating Permit applications. The categories for early submittals are as follows:

February 1, 1996 Natural gas compression/distribution/
transmission pipelines including SIC

March 1, 1996 Codes 4922, 4923, and 4924.
Natural gas processing plants, refined products pipelines, crude petroleum pipelines, petroleum bulk stations and terminals including SIC CODES 1321, 4612, 4613, and 5171.

April 1, 1996 Oil and gas production facilities including SIC CODE 1311.

For more information about the early call for the Part 70 Operating Permits Program, call Keith Jordan at (504) 765-0217.

Gustave A. Von Bodungen, P.E.
Assistant Secretary

9510#084

December 4, 1995 to Annette Sharp, Department of Environmental Quality, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA, 70884-2135. Telephone (504)765-0914.

A copy of the SIP changes may be viewed at the Air Quality Regulatory Division from 8 a.m. to 4:30 p.m., Monday through Friday, at:

(1) DEQ Headquarters, Air Quality Regulatory Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA; or,

(2) DEQ Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

Gus Von Bodungen
Assistant Secretary

9510#089

POTPOURRI

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

Pointe Coupee Parish Ozone Attainment Status

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq. and in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., the secretary gives notice that a change in the "State Implementation Plan" for Ozone abatement procedures has been initiated as follows:

Revisions to the proposed redesignation of Pointe Coupee Parish to ozone attainment status are being proposed. Pointe Coupee was previously designated as serious ozone nonattainment. In response to EPA comments, the Louisiana Department of Environmental Quality is proposing changes to the emission inventories reflecting results from the Urban Airshed Model to demonstrate continued maintenance of the National Ambient Air Quality Standards for ozone. Additionally, modifications have been made to the Maintenance and Contingency Plan. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the Revised State Implementation Plan was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status.

A public hearing will be held at 1:30 p.m. on Monday, November 27, 1995 in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP change no later than

POTPOURRI

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

SIP, ROP - VOC Emission Reduction (1999)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit a revision to the Post-1996 Rate of Progress (ROP) State Implementation Plan (SIP) to demonstrate the state's ability to reduce Volatile Organic Compound (VOC) emissions by 9 percent in 1999. The ROP is mandated under the requirements of the 1990 Clean Air Act Amendments.

Any area in the Nation designated as serious or above ozone nonattainment must submit a Post-1996 Rate of Progress Plan.

A public hearing will be held at 1:30 p.m. on Monday, November 27, 1995, in Room 326, Maynard Ketchum Building, 7290 Bluebonnet, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Pat Salvaggio at the telephone number or address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP no later than 4:30 p.m., December 4, 1995 at the following address: Pat Salvaggio, Department of Environmental Quality, Air Quality Division, Box 82135, Baton Rouge, LA, 70884-2135. Telephone (504)765-0915.

A copy of the ROP may be viewed at the Air Quality

Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet, Second Floor, Baton Rouge, LA; or the Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

Gus Von Bodungen, P.E.
Assistant Secretary

9510#086

POTPOURRI

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

SIP, ROP - VOC Emission Reduction (1996)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Air Quality and Radiation Protection will submit revisions to the Rate of Progress (ROP) State Implementation Plan (SIP) to demonstrate the State's ability to reduce Volatile Organic Compound (VOC) emissions by 15 percent in 1996. The ROP is mandated under the requirements of the 1990 Clean Air Act amendments.

Any area in the nation designated as serious or above ozone nonattainment must submit a 15 percent VOC Reduction ROP.

A public hearing will be held at 1:30 p.m. on Monday, November 27, 1995, in Room 326, Maynard Ketcham Building, 7290 Bluebonnet, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Pat Salvaggio at the telephone number or address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP. Such comments should be submitted no later than 4:30 p.m., December 4, 1995, at following address: Pat Salvaggio, Department of Environmental Quality, Air Quality Division, Box 82135, Baton Rouge, LA, 70884-2135. Telephone (504)765-0915.

A copy of the ROP may be viewed at the Air Quality Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet, Second, Baton Rouge, LA or at the Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

Gustave Von Bodungen, P.E.
Assistant Secretary

9510#087

POTPOURRI

Office of the Governor Office of Coastal Activities

Public Meetings

The Governor's Office of Coastal Activities and the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) Task Force will hold a series of public meetings to solicit comments and recommendations for the 1996-97 Louisiana Coastal Wetlands Conservation and Restoration Plan and the fifth CWPPRA candidate priority project list.

The schedule for these meetings and the hydrologic basins to be emphasized at each meeting are as follows:

November 27, 1995, Morgan City, 7 p.m.; City Court Building, Intersection of Myrtle St. and Highway 90. Meeting will emphasize projects in the Atchafalaya and Teche-Vermilion basins.

November 28, 1995, Cameron, 7 p.m.; Police Jury Annex (Courthouse Square), Highway 27 at Smith Circle. Meeting will emphasize projects in the Mermentau and Calcasieu-Sabine basins.

November 30, 1995, New Orleans, 7 pm; New Orleans District Army Corps of Engineers Headquarters, District Assembly Room, Foot of Prytania. Meeting will emphasize projects in the Pontchartrain, Breton Sound, Mississippi River and Barataria Basins.

All interested persons are invited to attend. For additional information, please contact the Governor's Office of Coastal Activities at (504)342-3968 or by mail at Box 94095, Baton Rouge, LA 70804.

Len Bahr
Executive Assistant

9510#093

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, December 2, 1995 at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from

the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

9510#067

POTPOURRI

**Department of Health and Hospitals
Office of the Secretary**

Hemodialysis Risks Public Hearing

The Louisiana Medical Disclosure Panel will hold a public hearing on November 20, 1995, at the Department of Health and Hospitals, 1201 Capitol Access Road, Third Floor Library, Baton Rouge, LA, at 10 a.m. The public is invited to comment on the material risks for procedures and treatment relating to hemodialysis. As published in the *Louisiana Register* on August 20, 1995, pages 866-868, this public hearing was originally scheduled to be held on Wednesday, September 27, but was cancelled due to an electrical problem in the building. Further information regarding this public hearing may be obtained by contacting Donald J. Palmisano, M.D., J.D., Chairman, Louisiana Medical Disclosure Panel, (504) 342-4796.

Rose V. Forrest
Secretary

9510#091

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
Acadiana Well Testers Inc.	Port Barre	John M Stelly	001	161802
Acadiana Well Testers Inc.	Port Barre	John M Stelly	002	169096
Aladdin Oil Company, Inc.	Bayou Couba	Waterford Oil Co	001	079445

Aladdin Oil Company, Inc.	Bayou Couba	Waterford Oil Co	002	080424
J. W. Alsobrook	Wildcat	J M Belisle	001	070725
Arlen Corporation	Caddo-Pine Island	Shelton	001	197191
Arlen Corporation	Caddo-Pine Island	Shelton	002	197192
Arlen Corporation	Caddo-Pine Island	Shelton	003	197193
Arlen Corporation	Caddo-Pine Island	Shelton	004	197194
Arlen Corporation	Caddo-Pine Island	Shelton SWD	001	197195
Arlen Corporation	Caddo-Pine Island	Shelton	006	197196
Arlen Corporation	Greenwood-Waskom	M Anisman	002	082019
Arlen Corporation	Greenwood-Waskom	M Anisman	003	085061
Arlen Corporation	Greenwood-Waskom	M Anisman	004	085062
Arlen Corporation	Greenwood-Waskom	M Anisman	005	086491
Arlen Corporation	Greenwood-Waskom	M Anisman	006	086492
Arlen Corporation	Greenwood-Waskom	M Anisman	007	092767
Arlen Corporation	Greenwood-Waskom	M Anisman	008	092768
Arlen Corporation	Greenwood-Waskom	M Anisman	010	096130
Arlen Corporation	Greenwood-Waskom	M Anisman	009	096131
Arlen Corporation	Greenwood-Waskom	M Anisman	012	099727
Arlen Corporation	Greenwood-Waskom	M Anisman	014	105238
Arlen Corporation	Greenwood-Waskom	M Anisman	015	105239
Arlen Corporation	Greenwood-Waskom	M Anisman	016	105240
Arlen Corporation	Greenwood-Waskom	M Anisman	017	105241
Arlen Corporation	Greenwood-Waskom	J B Atkinson	001	106765
Arlen Corporation	Greenwood-Waskom	J B Atkinson	002	106766
Arlen Corporation	Greenwood-Waskom	J B Atkinson	003	106829
Arlen Corporation	Greenwood-Waskom	J B Atkinson	004	106830
Arlen Corporation	Greenwood-Waskom	J B Atkinson B	B-1	107969
Arlen Corporation	Greenwood-Waskom	J B Atkinson B	B-3	107971

Arlen Corporation	Greenwood-Waskom	J B Atkinson B	B-4	107972
Arlen Corporation	Greenwood-Waskom	Abney-Kirkpatrick SWD	A-2	109644
Arlen Corporation	Greenwood-Waskom	Abney-Kirkpatrick	A-1	109645
Arlen Corporation	Greenwood-Waskom	Abney Kirkpatrick	A-4	109760
Arlen Corporation	Greenwood-Waskom	Abney Kirkpatrick	A-3	109761
Arlen Corporation	Greenwood-Waskom	Abney Kirkpatrick	A-5	109762
Bateman Drilling Company	Bayou Couba	Waterford Oil Co	001	084055
Billy E. Bayles	Monroe	Perry et al	001	164252
Billy E. Bayles	Richland	Hatch	001	116803
Billy E. Bayles	Richland	Hatch	1-34	118776
Billy E. Bayles	Richland	Hatch	1-2	119443
Billy E. Bayles	Richland	Hatch Est	001	141917
Billy E. Bayles	Richland	Hatch Estate	002	167658
Billy E. Bayles	Richland	Morris	002	175762
Billy E. Bayles	Richland	Noble	001	180821
Billy E. Bayles	Richland	Noble	002	181294
Billy E. Bayles	Richland	Noble	003	185062
Billy E. Bayles	Richland	Hatch Estate	005	185877
Billy E. Bayles	Richland	Hatch	1-3	190157
Billy E. Bayles	Richland	Noble	5	195767
Billy E. Bayles	Richland	Deloney Farms	001	209098
Billy E. Bayles	Richland	Deloney Farms	002	209504
J. W. Bowden	Grogan	J W Bowden	002	067957
R. C. Bridges et al	Grogan	E A Haire	001	047244
R. P. Bufkin	Grogan	H C Redding	001	045884
Walter M Caldwell, III	Monroe	Caldwell SWD	001	970689
Carraway Co	Lisbon	A W Kendrick A SWD	010	209077
Chenango Oil and Gas Co.	Valentine	VAL N RA SU;Dousson	008	046163
Chenango Oil and Gas Co.	Valentine	VAL N RA SU;Dousson	009	046614
Chenango Oil and Gas Co.	Valentine	VAL N RA SU;Dousson	010	050609
Citizens Oil & Gas, Inc.	Grogan	J H Bierden	001	171681
Cryer & Davis	Caddo-Pine Island	Crystal Oil and Ref Co	001	022125

O. O. Cummings	Monroe	O O Cummings Fee	001	044996
O. O. Cummings	Monroe	Sturgis Nix	001	148616
O. O. Cummings	Monroe	E Dixon	001	149307
O. O. Cummings	Monroe	Sturgis Nix	002	155745
O. O. Cummings	Monroe	Cummings Rabun	002	166177
O. O. Cummings	Monroe	Cummings Rabun	001	040480
Phil Daviss	Red River-Bull Bayou	USA	001	100931
Despot, Inc.	Bayou Des Allemands	Humble O&R Co	001	120976
Ted F. Dunham, Sr.	Caddo-Pine Island	Henry Dawes	A-1	108045
E. Herb Fults	Lake End	Kirk-Timmons	001	070961
Glenda Pet. & Union Dev.	Monroe	R O Blazier	001	145486
Greystone Enterprises	Esperance Point	J P Morgan SWD	001	042180
Greystone Enterprises	Esperance Point	J P Morgan SWD	005	044507
Greystone Enterprises	Esperance Point	Hugh Junkin	009	050846
Greystone Enterprises	Esperance Point	J P Morgan	018	057719
Greystone Enterprises	Esperance Point	J P Morgan	021	059335
Greystone Enterprises	Esperance Point	Morgan A	001	200114
Greystone Enterprises	North Starks	K R Peveto SWD	001	123728
Greystone Enterprises	North Starks	Stoma	001	151136
Greystone Enterprises	North Starks	VUA;Stoma	002	154898
Hurley-Beene-Day	Wildcat	Hurley Beene Day Bufkin	001	053309
Irwin & Beas Inc.	Wildcat	B L Crow Jr	001	068172
LA Pumps Inc.	Caddo-Pine Island	Logan	001	105123
LA Pumps Inc.	Caddo-Pine Island	Logan	003	106055
LA Pumps Inc.	Caddo-Pine Island	Logan	002	108532
LA Pumps Inc.	Caddo-Pine Island	Logan	007	109102
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Ernest A. Burguières, III
Commissioner

9510#092

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Docket Number UIC 95-11

Pursuant to the provisions of the laws of the state of Louisiana and particularly Title 30 of the Louisiana

Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Thursday, November 30, 1995, in the Cameron Parish Police Jury Annex located on the Court House Square in Cameron, LA.

At such hearing, the commissioner, or his designated representative will hear testimony relative to the application of AMBAR, Inc., Box 51271, Lafayette, LA 70505. The applicant intends to construct and operate a commercial nonhazardous oilfield waste treatment facility in Section 24, Township 14 South, Range 10 West, Tracts R1 and R2 Cameron Parish, LA.

The application is available for inspection by contacting Pierre Catrou, Office of Conservation, Injection and Mining Division, Room 257 of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA, or by visiting the Cameron Parish Police Jury Office in Cameron, LA. Verbal information may be received by calling him at (504) 342-5567.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 5 p.m., December 7, 1995, at the Baton Rouge Office. Comments should be directed to: Office of Conservation Injection and Mining Division, Re: Docket No. IMD 95-11, Commercial Facility, Cameron Parish, Box 94275, Baton Rouge, LA 70804.

Ernest A. Burguières, III
Commissioner

9510#068

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